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GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

SUPPLEMENT

TO

THE COLLECTION

OF

STATUTES RELATING TO INDIA.

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1881.

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SUPPLEMENT

TO

THE COLLECTION OF

STATUTES RELATING TO INDIA.

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44 & 45 VICTORIA. A. D. 1881.

CHAPTER LIII.

An Act for making further provision with respect to the Redemption of the Annuity created under the East Indian Railway Company Purchase Act, 1879; and for other purposes.

[*22nd August 1881.*]

WHEREAS by the East Indian Railway Company Purchase Act, 1879, (herein-after called the Purchase Act,) provision was made for transferring to and vesting in the Secretary of State in Council of India, herein-after called the Secretary of State, the undertaking of the East Indian Railway Company, herein-after called the Company, and all other the property of the Company, save and except as therein mentioned, and for the creation of an annuity of one million four hundred and seventy-three thousand seven hundred and fifty pounds, terminating on the fourteenth of February one thousand nine hundred and fifty-three, to be charged on the revenues of India, and to be paid to the Company as therein mentioned for the purpose of being distributed among the proprietors of stock of the Company: 42 & 43 Vict. c. 206.

And whereas by section forty-six of the Purchase Act it was enacted that the Secretary of State might purchase by agreement from any proprietor of stock of the Company the amount of annuity to which such proprietor was entitled, or any portion thereof, paying in exchange for the same as thereby provided, to any such proprietor on the register in London India four per centum stock, and to any such proprietor on the register at Calcutta India four per centum rupee debt in India, at the respective rates therein specified, subject to the proviso that no such purchase should be made by means of India four per centum stock unless the Secretary of State should be authorised by Parliament to create and issue such stock for the purpose:

And whereas by the same Act (section forty-eight) provision was made for the registration in the name of the Secretary of State of the annuities so to be purchased, and (section forty-nine) for the retention by the Secretary of State of the amount therein mentioned in respect of the annuity registered in his name, and (section fifty) for the rights and liabilities of the Secretary of State in respect of the annuity so registered:

And whereas by section fifty-one of the same Act the Secretary of State was required to invest one equal ninth part of the amount retained by him in respect of the annuity registered in his name, in order to provide a sinking fund to be applied in the reduction of the public debt of India created under the authority of Parliament:

42 & 43 Vict. c. 43.

And whereas by an Act of the same session, chapter forty-three, "to enable the Secretary of State in Council of India to create and issue capital stock in the United Kingdom in exchange for so much of the annuity created under the East Indian Railway Company Purchase Act, 1879, and thereby made chargeable on the revenues of India, as may be purchased by the Secretary of State under that Act" (herein-after called the Redemption Act), the Secretary of State was authorised to create and issue India four per centum stock for the purposes of the Purchase Act, and such stock has accordingly been created and issued, and paid in exchange for a portion of the annuity created under the Purchase Act:

And whereas by reason of the conversion of the stock of the Company into the annuities created under the Purchase Act there are no longer any proprietors of that stock, and it is expedient that the powers of the Secretary of State be extended to authorise the purchase of the said annuities from the holders thereof:

And whereas it is expedient that the Secretary of State be authorised to create and issue such capital stock, bearing interest at a lower rate than four per centum per annum, as may be required either for the purpose of this purchase, or for the purpose of reducing the liabilities charged on the revenues of India by the redemption of any part of those liabilities which may for the time being bear interest at a rate not lower than the stock so created:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

r to se es nui-

1. (1.) THE Secretary of State may purchase by agreement from any holder of the annuity created under the Purchase Act the whole or any part of the annuity held by him, paying in exchange for the same India stock created under this Act at such a rate of exchange that the annual interest on the

stock given in exchange for any annuity shall not exceed eight-ninths of the annuity.

(2.) The annuities purchased under this section shall be registered in the books of the Company in the name of the Secretary of State by his official style, and sections forty-nine and fifty of the Purchase Act shall apply to them as if they were so registered in pursuance of that Act.

Power to create India stock for the purpose of reducing the public debt or liabilities of India.

2. (1.) THE Secretary of State may from time to time create and issue so much capital stock, bearing interest at the rate of three and a half per centum per annum, or at any other rate not higher than four per centum per annum, as may be required either for the purpose of redeeming the annuities created under the Purchase Act by the purchase thereof under this Act, or for the purpose of redeeming any other liability now charged on the revenues of India and bearing interest or involving an annual payment at a rate not lower than the interest of the stock so created; subject, nevertheless, to the following provisoes:—

(*a*) the difference between the interest or annual payment in respect of the liability redeemed and the interest on the stock created for redemption thereof shall be set aside and invested in manner directed by section fifty-one of the Purchase Act with respect to the amount of annuity retained by the Secretary of State under that Act, so as to provide a sinking fund to be applied in reduction of the public debt of India created under the authority of Parliament:

(*b*) any stock or securities that may be cancelled or redeemed for the purposes of such reduction shall not be re-issued without the authority of Parliament:

(*c*) the amount so set aside shall be sufficient to repay the principal of the stock created at the expiration of the period during which the Secretary of State was liable to pay the interest or annual payment redeemed by means of the creation of the stock, if that period does not exceed ninety-nine years, but if it does exceed ninety-nine years then at the expiration of ninety-nine years from the date of the creation of the stock:

(*d*) when and so soon as the public debt of India created under the authority of Parliament shall by the operation of the said sinking fund be reduced by an amount equivalent to the amount of the public debt of India, attributable to the redemption effected under this section, any obligation imposed on the Secretary of State under or by virtue of this section shall cease and determine.

(2.) All the provisions of the Redemption Act with respect to the capital

stock created or issued under that Act shall apply to the capital stock created or issued under this Act.

Short title.

3. THIS Act may be cited as the East Indian Railway (Redemption of Annuities) Act, 1881.

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44 & 45 VICTORIA. A. D. 1881.

CHAPTER LIV.

An Act to make further provision with respect to the Indian Loan of 1879.

[*22nd August 1881.*]

42 & 43 Vict. c. 45.

WHEREAS the Indian Advance Act, 1879, authorised the Commissioners of Her Majesty's Treasury (in this Act referred to as the Treasury) to advance to the Government of India two million pounds, and provided that such advance should be repaid by the Government of India as follows:

In the financial year 1880-81... ... ... 290,000*l.*

In each of the six succeeding financial years ... 285,000*l.*

inclusive of interest, at the rate of three per cent., and at such time or times as might be agreed on between the Treasury and the Government of India, but the Act provided that the interest so received should be repaid to the Government of India:

And whereas the said sum of two million pounds was advanced to the Government of India, but no sum has been repaid by the said Government in respect either of principal or interest:

42 & 43 Vict. c. 61.

And whereas in pursuance of the East Indian Loan (Annuities) Act, 1879, the above sum was raised by the creation of two million and forty-nine thousand two hundred and fifty-nine pounds five shillings and nine pence three per cent. consolidated bank annuities, and those annuities are charged on the Consolidated Fund, but are not paid out of the permanent annual charge for the National Debt:

And whereas the said annuities were purchased by the Commissioners for the Reduction of the National Debt (in this Act referred to as the National Debt Commissioners) on account of trustee and post office savings banks:

And whereas it is expedient to repeal the said obligation on the Government of India to repay the said sum of two million pounds, and to provide for the conversion of the above-mentioned amount of three per cent. consolidated bank annuities into terminable annuities and for the payment of those annuities out of the permanent annual charge for the National Debt:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons,

in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited as the Indian Loan Act, 1881.

Repeal of 42 & 43 Vict. cc. 45 and 61, and provision as to conversion of annuities into terminable annuities.

2. (1.) THE Indian Advance Act, 1879, and the East Indian Loan (Annuities) Act, 1879, are hereby repealed without prejudice to anything done in pursuance of the said Acts before the passing of this Act.

(2.) The three per cent. consolidated bank annuities created in pursuance of the East Indian Loan (Annuities) Act, 1879, shall continue to be charged on the Consolidated Fund, and shall be paid out of the permanent annual charge of the National Debt.

(3.) The Treasury shall at any time or times before the thirty-first day of March one thousand eight hundred and eighty-two convert into terminable annuities for periods not exceeding twenty-five years such amounts of three per cent. consolitated bank annuities held by the National Debt Commissioners on account of trustee and post office savings banks, or either of them, as in the whole are equal to two million and forty-nine thousand two hundred and fifty-nine pounds five shillings and nine pence capital stock.

(4.) The Treasury may convert the same by a warrant to the Governor and Company of the Bank of England directing them to cancel the said annuities in their books as from the date of conversion specified in the warrant, and to inscribe in their books, as from the same date to the same account as that for which the cancelled annuities were held, terminable annuities of the amounts and for the periods mentioned in the warrant.

(5.) The amount of the terminable annuities to be inscribed shall be certified to the Treasury by the National Debt Commissioners under the hands of the Controller-General, or Assistant Controller, and of the Actuary of the National Debt Office.

(6.) For the purpose of ascertaining the amount of the terminable annuities—

interest shall be taken at the rate of interest yielded by three per cent. consolidated bank annuities at the average price of the day as certified by the Bank of England on the date of conversion:

the capital value of perpetual annuities shall be calculated at the average price of the same day.

(7.) The perpetual annuities directed in pursuance of this Act to be cancelled shall after the date of conversion be cancelled, and all payments in respect thereof shall cease.

(8.) The terminable annuities created under this Act shall after the date of their creation be charged on the Consolidated Fund, and be paid out of the permanent annual charge of the National Debt yearly or half-yearly at such times in each year as may be fixed by the warrant creating them.

(9.) Every terminable annuity received by the National Debt Commissioners in pursuance of this Act shall, so far as it represents interest, be dealt with as dividends of the perpetual annuities converted into such terminable annuity would have been applied, and, so far as it represents principal, shall be dealt with by them as moneys received on account of trustee or post office saving banks, as the case may be.

(10.) The warrants of the Treasury issued in pursuance of this Act shall be a sufficient authority to the Bank of England for doing the things thereby directed, and copies of such warrants shall be laid before both Houses of Parliament within one month after they are issued, if Parliament is then sitting, and, if not, within one month after the then next meeting of Parliament.

Temporary increase of permanent annual charge of National Debt. 43 & 44 Vict. c. 36.

38 & 39 Vict. c. 45.

3. For the period of four financial years commencing on the first day of April one thousand eight hundred and eighty-one, the permanent annual charge for the National Debt shall, subject to any increase under the Savings Bank Act, 1880, be twenty-eight million nine hundred and twenty thousand pounds, and thereafter during the currency of the terminable annuity created under this Act shall be twenty-eight million one hundred and twenty thousand pounds, and during the said periods the Sinking Fund Act, 1875, shall be construed as if the above-named sums were respectively substituted in the first section of that Act for "twenty-eight million pounds."

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44 & 45 VICTORIA. A. D. 1881.

CHAPTER LVII.

An Act to amend the Law respecting the Regulation of Her Majesty's Forces, and to amend the Army Discipline and Regulation Act, 1879.

[*27th August 1881.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:—

* * * * * * * * *

Amendment of Regimental Debts Act.

Amendment of 26 & 27 Vict. c. 57. as to collection and disposal of effects of deceased officers and soldiers.

51. SUBJECT to any regulations made by Her Majesty by warrant for the better execution of the Regimental Debts Act, 1863, as amended by this Act,—

(1) the committee of adjustment shall have power to postpone and dispense with the sale of all or any of the effects of the deceased, and when out of the United Kingdom to pay all the debts and collect all the assets of the deceased, and to transfer their worth to any official administrator, but at any

time, upon the preferential charges being paid or secured by any person, shall cease further to interfere, except so far as they may be requested so to do, by or on behalf of such person; and

(2) the paymaster, officer, or other person receiving any surplus, when out of the United Kingdom, may pay thereout his expenses in relation to the surplus, and also any debts of the deceased, and may pay over sums to the representative, widow, or relatives of the deceased, although not present at head-quarters; and

(3) the Secretary of State for War or for India in Council may act under the Regimental Debts Act, 1863, in relation to any amount due to a deceased officer or soldier, although no surplus is remitted to him, and may, after such notice only (if any) as is determined by the regulations, dispose of the residue or any sums in his hands on account of a deceased officer or soldier, and may dispose of the same, if not exceeding one hundred pounds, among the persons appearing to him to be beneficially entitled to the personal property of the deceased or any of them; and

(4) the Regimental Debts Act, 1863, shall apply, whether within or without Her Majesty's dominions, to all persons subject to military law as officers or soldiers in like manner as if they were respectively included in the terms officer and soldier, with the exception that the Act shall apply to all warrant officers as if they were officers.

Commencement, Savings, and Repeal.

Commencement of part of Act

52. THIS Act shall come into operation as follows; that is to say,

(*a*) in the United Kingdom, the Channel Islands, and the Isle of Man at the expiration of one month after the passing of this Act;

(*b*) elsewhere in Europe, inclusive of Malta, also in the West Indies and America, at the expiration of two months after the passing of this Act; and

(*c*) elsewhere, whether within or without Her Majesty's dominions, at the expiration of six months after the passing of this Act.

And the day upon which this Act so comes into force in any place is in this Act in reference to such place referred to as the commencement of this Act;

Provided that this Act shall, if promulgated in any general order in any place out of the United Kingdom, the Channel Islands, and the Isle of Man, come into full force in that place from and after the date named in such general order, anything in this section contained to the contrary notwithstanding, and such date shall be deemed in reference to such place to be the commencement of this Act.

Saving for existing men.

53. WHERE a man belonging to the regular forces, reserve forces, or the

militia was enlisted before the passing of this Act, or before the date of an order or regulation made under this Act, nothing in this Act shall require such man without his consent to serve in, or be appointed, transferred, posted, or attached to any military body in or to which he could not have been required without his consent to serve, or be appointed, transferred, posted, or attached if this Act or the said order or regulation, as the case may be, had not been made, or to serve for any longer period than that for which he was before the passing of this Act, or before the date of such order or regulation, as the case may be, liable to serve.

Repeal of Acts.

54. THE Acts specified in the schedule to this Act shall be repealed as from the commencement of this Act to the extent in the third column of that schedule specified.

Provided that—

(*a.*) This Act, or any repeal by this Act, shall not affect anything done or suffered, or any rights or liabilities acquired or accrued, before the commencement thereof, and any proceedings for carrying into effect anything commenced before the commencement of this Act may be carried on and completed as if this Act had not passed.

(*b.*) Any liability to service or annual training under any enactment hereby repealed shall, as regards any man to whom the provisions of this Act with respect to such service or training do not apply, continue and be enforced as if the enactment had not been repealed.

(*c.*) Any enactment relating to the reckoning of the service of a soldier for the purpose of discharge shall continue to apply, so far as is necessary for the purposes of this Act, as regards any soldier to whom section seventy-six of the Army Act, 1879, does not apply.

(*d.*) In the case of any offence committed before the commencement of this Act, if any proceeding for the trial or punishment of the offender has been commenced before the commencement of this Act, such proceeding may be carried on and completed, and the offender may be tried and punished, as if this Act had not passed, but, save as aforesaid, this Act shall apply to the arrest, trial, conviction, and punishment of a person accused of an offence committed before the commencement of this Act, so however that a person shall not be subject to any greater punishment than he is subject to before the commencement of this Act, nor to any punishment for anything done before the commencement of this Act which at the time of its being done was not an offence punishable by law.

Pensions of soldiers formerly in Indian forces.

55. WHEREAS under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter seventy-four,

intituled "An Act to render lawful the enlistment of persons transferred from "the Indian to the general forces of Her Majesty, and to provide in certain "respects for the rights of such persons," it was provided that where a soldier was transferred from Her Majesty's Indian forces to Her Majesty's general forces it should be lawful for the Commissioners of Chelsea Hospital to calculate the pension of such person in accordance with the regulations either of Her Majesty's Indian or of Her Majesty's general forces, according as such soldier might choose :

And whereas doubts have arisen as to whether certain additions to pensions granted by Royal Warrant to the above-mentioned soldiers in respect of service over and above the term of twenty-one years can, having regard to the above-recited Act, be lawfully granted by the said Commissioners to the said soldiers, and it is expedient to remove such doubts : Be it therefore enacted as follows :

Nothing in the Act above in this section recited shall prevent the Commissioners of Chelsea Hospital from granting to a soldier such pension as is for the time being authorized by Royal Warrant.

SCHEDULE.

Enactments repealed.

A description or citation of a portion of an Act in this Schedule is inclusive of the word, section, or other part first and last mentioned or otherwise referred to as forming the beginning, or as forming the end, of the portion described in the description or citation.

Year and Chapter.	Title or Short Title.	Extent of Repeal.
42 Geo. 3. c. 68. ...	An Act to enable His Majesty to accept and continue the services of certain troops or companies of yeomanry in Ireland.	Section seven.
43 Geo. 3. c. 61. ...	An Act for the relief of soldiers, sailors, and marines, and the widows of soldiers in the cases therein mentioned so far as relates to England.	The whole Act.
44 Geo. 3. c. 54 ...	An Act to consolidate and amend the provisions of the several Acts relating to corps of yeomanry and volunteers in Great Britain, and to make further regulations relating thereto.	Section twenty-one, section twenty-five.

Year and Chapter.	Title or Short Title.	Extent of Repeal.
47 Geo. 3. sess. 2. c. 25.	An Act for the more convenient payment of half-pay and pensions, and other allowances to officers and widows of officers, and the persons upon the compassionate list.	The whole Act, except section four.
51 Geo. 3. c. 103. ...	An Act to authorize the allowing officers to retire on half-pay or other allowances under certain restrictions.	So much as is unrepealed.
52 Geo. 3. c. 151. ...	An Act to extend the provisions of an Act of the last session of Parliament relating to the half-pay and allowance of officers retiring from service, and to authorize the allowing to foreign officers wounded the like pensions and allowances as are given to British officers under the like circumstances.	The whole Act.
50 Geo. 3. c. 87. ...	An Act to amend two Acts relating to the raising men for the service of the East India Company, and the quartering and billeting such men, and to trials by regimental courts-martial.	So much as is unrepealed.
51 Geo. 3. c. 75. ...	An Act for making further provision for the payment of salaries and other charges in the office of the Commissioners for the Affairs of India, and for enabling the East India Company to restore to the service of the said Company military officers removed therefrom by sentences of courts-martial, and to authorize the said Company, in cases of unforeseen urgency, to take up ships by private contract.	So much as is unrepealed.
58 Geo. 3. c. 73. ...	An Act for regulating the payment of regimental debts, and the distribution of the effects of officers and soldiers dying in service, and the receipt of sums due to officers.	So much as is unrepealed.
2 & 3 Will. 4. c. 106.	An Act to enable officers in His Majesty's army and their representatives, and the widows of officers and persons on the	The whole Act.

Year and Chapter.	Title or Short Title.	Extent of Repeal.
2 & 3 Will. 4. c. 106—*contd.*	compassionate list, and also civil officers on retired or superannuation allowances payable by the Paymaster-General of His Majesty's forces, to draw for and receive their half-pay and allowances.	
7 Will. 4 & 1 Vict. c. 29.	An Act for enabling Her Majesty to grant the rank of general officers to foreigners now bearing Her Majesty's commission, and to permit the enlistment of foreigners under certain restrictions.	So much as is unrepealed.
7 & 8 Vict. c. 18 ...	An Act to remove doubts as to the power of appointing, convening, and confirming the sentences of courts-martial in the East Indies.	The whole Act.
10 & 11 Vict. c. 37	An Act for limiting the time of service in the army.	The whole Act.
10 & 11 Vict. c. 63	An Act for limiting the time of service in the Royal Marine forces.	Section two; section three, from "to serve" to the end of the section; section four, from "according to the form" to the end of the section, and the schedules.
20 Vict. c. 1 ...	An Act to amend the Act for limiting the time of service in the Royal Marine forces.	Section one, from "and the forms of questions" to the end of the section.
26 & 27 Vict. c. 65.	The Volunteer Act, 1863 ...	Section three, from "for the purposes of this Act" down to "usages of Her Majesty's forces," so far as relates to such portion of the permanent staff as are included in any corps of the regular forces within the meaning of this Act, and from 'if any non-commissioned officer of the volunteer permanent staff" to the end of the section; section five, from "officers of the volunteer force when not on actual" down to "articles of war;" section nine; section fourteen, from "for the purposes of this Act" down to "any regulations under this Act," so far as relates to such portion of the permanent staff as are included in any corps of the regular forces within the meaning of this Act;

Year and Chapter.	Title or Short Title.	Extent of Repeal.
26 & 27 Vict. c. 65—*contd.*	The Volunteer Act, 1863—*contd.*	in section eighteen, the words "and to be billeted and quartered" and from "and to have relief" down to "or to Scotland;" sections twenty-two and twenty-three; section forty-nine, from "the term Mutiny Act" down to "Act for the time being in force," and from "if at any time Her Majesty thinks fit" down to "such men respectively," so far as relates to such portion of the permanent staff as are included in any corps of the regular forces within the meaning of this Act; and the forms of warrant (ii) and (iii) in the schedule.
30 & 31 Vict. c. 34.	An Act for limiting the period of enlistment in Her Majesty's army.	The whole Act.
30 & 31 Vict. c. 110.	The Reserve Force Act, 1867 ...	Sections four, six, seven, and eight; section ten, from "and the said force" to the end of the section; section twelve; and section thirteen, from "or who having" down to "service as aforesaid."
30 & 31 Vict. c. 111.	The Militia Reserve Act, 1867 ...	Section two, from "Mutiny Act means" to the end of the section; section six; section nine and section eleven, from "may have volunteered" down to "enlisted under this Act"; and from "and offences committed by such men," to the end of the section.
33 & 34 Vict. c. 67.	The Army Enlistment Act, 1870.	The whole Act, except section fourteen, section fifteen down to "Reserve Act, 1867," section twenty, and section twenty-two.
34 & 35 Vict. c. 86.	The Regulation of the Forces Act, 1871.	Sections nine and fifteen.
38 & 39 Vict. c. 69.	The Militia Voluntary Enlistment Act, 1875.	Section two, from "Mutiny Act means" to "authority of the Mutiny Act;" section twenty; section twenty-two; section twenty-nine; section thirty-seven, from "and officers either of the militia" to the end of the section; section forty-two; sections fifty-six to sixty; sections sixty-four to seveuty-one; sections seventy-three to seventy-five; and section seventy-seven.

Year and Chapter.	Title or Short Title.	Extent of Repeal.
39 & 40 Vict. c. 36.	The Customs Consolidation Act, 1876.	Section nine, from "nor shall any soldiers" to the end of the section.
41 & 42 Vict. c. 10.	An Act for punishing mutiny and desertion and for the better payment of the army and their quarters.	The whole Act, except sections forty-two, forty-seven, and forty-eight, so far as they relate to the reserve forces and are not inconsistent with the Army Act, 1879, and except section forty-four from "Provided that a recruit" to the end of the section; sections fifty-seven, fifty-eight, eighty, one hundred and five, and one hundred and nine, and the first form of oath and the first form of certificate in the schedule, so far as they relate to any of the auxiliary forces and are not inconsistent with the Army Act, 1879.
41 & 42 Vict. c. 11.	An Act for the regulation of Her Majesty's Royal Marines while on shore.	The whole Act.
42 & 43 Vict. c. 32.	The Army Discipline and Regulation (Commencement) Act, 1879.	Section four, from "the expiration of the Army Mutiny Act shall not" down to "relating to the same matters."
42 & 43 Vict. c. 33.	The Army Discipline and Regulation Act, 1879.	Section twenty, from "or allows to escape" down to "keep or guard" (being sub-section two); section twenty-three, in section twenty-eight, the words "whether present as a witness or by-stander, or in any capacity other than as a prisoner"; section forty-seven, from "such court-martial shall consist," down to "not less than three officers" (being sub-section (2)); section forty-eight, from "a general court-martial shall consist" down to "consist of three officers" (being sub-sections (3) and (4)); in section fifty-four, part of sub-section five, namely, "and where a court-martial is held in a colony" down to "above-mentioned" at the end of the sub-section; in sub-section (2) of section eighty-three the words "or while such soldier is on service beyond the seas" so far as they relate to men enlisted after the commencement of this Act; in section eighty-six,

Year and Chapter.	Title or Short Title.	Extent of Repeal.
42 & 43 Vict. c. 33 —*contd.*	The Army Discipline and Regulation Act, 1879—*contd.*	from "a soldier of the regular forces who is discharged" to the end of the section; in section one hundred and twenty, the words "by warrant of Her Majesty"; section one hundred and thirty-five; section one hundred and fifty-six, from "a record made in one of the regimental books" down to "stated by such record" (being sub-section (*g*)); section one hundred and sixty-nine, from "Provided that it shall be the duty of the commanding officer," in sub-section (8) down to "in which he shall be subject to military law," being the end of that sub-section; section one hundred and seventy-one, from "and if any such officers or men of the royal marines," in sub-section (8) down to "subject to this Act accordingly," being the end of that sub-section; section one hundred and seventy-three, so far as relates to pensioners; in section one hundred and eighty-one, the definition of "corps," from "as respects cavalry" down to "included in a territorial brigade and," and from "a regiment of militia" to "volunteers and," and the last part of the section from "for the purpose of deducting" to the end of the section.

Army Act, 1881.

[44 & 45 Vict. Ch. 58.]

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PART I.

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SECTION.

28. Offences in relation to courts-martial.
29. False evidence.

Offences in relation to Billeting.

30. Offences in relation to billeting.

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31. Offences in relation to the impressment of carriages, and their attendants.

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75. Power as to restitution of stolen property.

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153. Punishment for inducing soldiers to desert.
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159. Liability to military law in respect of place of commission of offence.
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44 & 45 VICTORIA. A. D. 1881.

CHAPTER LVIII.

An Act to consolidate the Army Discipline and Regulation Act, 1879, and the subsequent Acts amending the same. [*27th August 1881.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Preliminary.

Short title of Act.

1. THIS Act may be cited for all purposes as the Army Act, 1881.

Mode of bringing Act into force.

2. THIS Act shall continue in force only for such time and subject to such provisions as may be specified in an annual Act of Parliament bringing into force or continuing the same.

Division of Act.

3. THIS Act is divided into five parts, relating to the following subject-matters; that is to say,

Part I., discipline:

Part II., enlistment:

Part III., billeting and impressment of carriages:

Part IV., general provisions:

Part V., application of military law, saving provisions, and definitions.

PART I.

DISCIPLINE.

Offences in respect of military service.

CRIMES AND PUNISHMENTS.

Offences in respect of Military Service.

Offences in relation to the enemy punishable with death.

4. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) shamefully abandons or delivers up any garrison, place, post, or guard, or uses any means to compel or induce any governor, commanding officer, or other person shamefully to abandon or deliver up any garrison, place, post, or guard, which it was the duty of such governor, officer, or person to defend; or

(2) shamefully casts away his arms, ammunition, or tools in the presence of the enemy; or

Offences in respect of military service.

(3) treacherously holds correspondence with or gives intelligence to the enemy, or treacherously or through cowardice sends a flag of truce to the enemy; or

(4) assists the enemy with arms, ammunition, or supplies, or knowingly harbours or protects an enemy not being a prisoner; or

(5) having been made a prisoner of war, voluntarily serves with or voluntarily aids the enemy; or

(6) knowingly does when on active service any act calculated to imperil the success of Her Majesty's forces or any part thereof; or

(7) misbehaves or induces others to misbehave before the enemy in such manner as to show cowardice,

shall on conviction by court-martial be liable to suffer death, or such less punishment as in this Act mentioned.

Offences in relation to the enemy not punishable with death.

5. EVERY person subject to military law who on active service commits any of the following offences; that is to say,

(1) without orders from his superior officer leaves the ranks, in order to secure prisoners or horses, or on pretence of taking wounded men to the rear; or

(2) without orders from his superior officer wilfully destroys or damages any property; or

(3) is taken prisoner, by want of due precaution, or through disobedience of orders, or wilful neglect of duty, or having been taken prisoner fails to rejoin Her Majesty's service when able to rejoin the same; or

(4) without due authority either holds correspondence with, or gives intelligence to, or sends a flag of truce to the enemy; or

(5) by word of mouth or in writing or by signals or otherwise spreads reports calculated to create unnecessary alarm or despondency; or

(6) in action, or previously to going into action, uses words calculated to create alarm or despondency,

shall on conviction by court-martial be liable to suffer penal servitude, or such less punishment as is in this Act mentioned.

Offences punishable more severely on active service than at other times.

6. (1.) EVERY person subject to military law who commits any of the following offences; that is to say,

(*a*) leaves his commanding officer to go in search of plunder; or

(*b*) without orders from his superior officer, leaves his guard, picquet, patrol, or post; or

(*c*) forces a safeguard; or

(*d*) forces or strikes a soldier when acting as sentinel; or

(*e*) impedes the provost marshal or any assistant provost marshal or any

Offences in respect of military service.

officer or non-commissioned officer or other person legally exercising authority under or on behalf of the provost marshal, or, when called on, refuses to assist in the execution of his duty the provost marshal, assistant provost marshal, or any such officer, non-commissioned officer, or other person; or

(*f*) does violence to any person bringing provisions or supplies to the forces; or commits any offence against the property or person of any inhabitant of or resident in the country in which he is serving; or

(*g*) breaks into any house or other place in search of plunder; or

(*h*) by discharging firearms, drawing swords, beating drums, making signals, using words, or by any means whatever, intentionally occasions false alarms in action, on the march, in the field, or elsewhere; or

(*i*) treacherously makes known the parole, watchword, or countersign to any person not entitled to receive it; or treacherously gives a parole, watchword, or countersign different from what he received; or

(*j*) irregularly detains or appropriates to his own corps, battalion, or detachment any provisions or supplies proceeding to the forces, contrary to any orders issued in that respect; or

Misbehaviour of sentinel.

(*k*) being a soldier acting as sentinel, commits any of the following offences; that is to say,

(i) sleeps or is drunk on his post; or

(ii) leaves his post before he is regularly relieved,

shall, on conviction by court-martial,

if he commits any such offence on active service, be liable to suffer death, or such less punishment as is in this Act mentioned; and

if he commits any such offence not on active service, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

(2.) Every person subject to military law who commits any of the following offences; that is to say,

(*a*) by discharging firearms, drawing swords, beating drums, making signals, using words, or by any means whatever, negligently occasions false alarms in action, on the march, in the field, or elsewhere; or

(*b*) makes known the parole, watchword, or countersign to any person not entitled to receive it; or, without good and sufficient cause, gives

a parole, watchword, or countersign different from what he received,

shall on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Mutiny and insubordination.

Mutiny and Insubordination.

Mutiny and sedition.

7. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) causes or conspires with any other persons to cause any mutiny or sedition in any forces belonging to Her Majesty's regular, reserve, or auxiliary forces, or Navy; or

(2) endeavours to seduce any person in Her Majesty's regular, reserve, or auxiliary forces, or Navy, from allegiance to Her Majesty, or to persuade any person in Her Majesty's regular, reserve, or auxiliary forces, or Navy, to join in any mutiny or sedition; or

(3) joins in, or being present does not use his utmost endeavours to suppress, any mutiny or sedition in any forces belonging to Her Majesty's regular, reserve, or auxiliary forces, or Navy; or

(4) coming to the knowledge of any actual or intended mutiny or sedition in any forces belonging to Her Majesty's regular, reserve, or auxiliary forces, or Navy, does not without delay inform his commanding officer of the same,

shall on conviction by court-martial be liable to suffer death, or such less punishment as is in this Act mentioned.

Striking or threatening superior officer.

8. (1.) EVERY person subject to military law who commits any of the following offences; that is to say,

strikes or uses or offers any violence to his superior officer, being in the execution of his office,

shall on conviction by court-martial be liable to suffer death, or such less punishment as is in this Act mentioned; and

(2.) Every person subject to military law who commits any of the following offences; that is to say,

strikes or uses or offers any violence to his superior officer, or uses threatening or insubordinate language to his superior officer,

shall, on conviction by court-martial, if he commits such offence on active service, be liable to suffer penal servitude, or such less punishment as is in this Act mentioned; and

if he commits such offence not on active service, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned; and

Mutiny and insubordination.

if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Disobedience to superior officer.

9. (1.) EVERY person subject to military law who commits the following offence; that is to say,

disobeys in such manner as to show a wilful defiance of authority any lawful command given personally by his superior officer in the execution of his office, whether the same is given orally, or in writing, or by signal, or otherwise,

shall on conviction by court-martial be liable to suffer death, or such less punishment as is in this Act mentioned; and

(2.) Every person subject to military law who commits the following offence; that is to say,

disobeys any lawful command given by his superior officer,

shall, on conviction by court-martial, if he commits such offence on active service, be liable to suffer penal servitude, or such less punishment as is in this Act mentioned; and

if he commits such offence not on active service, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Insubordination.

10. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) being concerned in any quarrel, fray, or disorder, refuses to obey any officer (though of inferior rank) who orders him into arrest, or strikes or uses or offers violence to any such officer; or

(2) strikes or uses or offers violence to any person, whether subject to military law or not, in whose custody he is placed, and whether he is or is not his superior officer; or

(3) resists an escort whose duty it is to apprehend him or to have him in charge; or

(4) being a soldier breaks out of barracks, camp, or quarters,

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Neglect to obey garrison or other orders.

11. EVERY person subject to military law who commits the following offence; that is to say,

neglects to obey any general or garrison or other orders,

shall, on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Provided that the expression "general orders" in this section shall not include Her Majesty's regulations and orders for the army or any similar order in the nature of a regulation published for the general information and guidance of the army.

Desertion, fraudulent enlistment, and absence without leave.

Desertion, Fraudulent Enlistment, and Absence without Leave.

Desertion.

12. (1.) EVERY person subject to military law who commits any of the following offences; that is to say,

(*a*) deserts or attempts to desert Her Majesty's service; or

(*b*) persuades, endeavours to persuade, procures or attempts to procure, any person subject to military law to desert from Her Majesty's service,

shall, on conviction by court-martial—

if he committed such offence when on active service or under orders for active service, be liable to suffer death, or such less punishment as is in this Act mentioned; and

if he committed such offence under any other circumstances, be liable for the first offence to suffer imprisonment, or such less punishment as is in this Act mentioned; and for the second or any subsequent offence to suffer penal servitude, or such less punishment as is in this Act mentioned.

(2.) Where an offender has fraudulently enlisted once or oftener, he may, for the purposes of trial for the offence of deserting or attempting to desert Her Majesty's service, be deemed to belong to any one or more of the corps to which he has been appointed or transferred as well as to the corps to which he properly belongs; and it shall be lawful to charge an offender with any number of offences against this section at the same time, and to give evidence of such offences against him, and if he be convicted thereof to punish him accordingly; and further it shall be lawful on conviction of a person for two or more such offences to award him the higher punishment allowed by this section for a second offence as if he had been convicted by a previous court-martial of one of such offences.

(3.) For the purposes of the liability under this section to the higher punishment for a second offence, a previous offence of fraudulent enlistment may be reckoned as a previous offence under this section.

Fraudulent enlistment.

13. (1.) EVERY person subject to military law who commits any of the following offences; that is to say,

(*a*) when belonging to either the regular forces or the militia when embodied, without having first obtained a regular discharge there-

Desertion, fraudulent enlistment, and absence without leave.

from, or otherwise fulfilled the conditions enabling him to enlist, enlists in Her Majesty's regular forces; or

(*b*) when belonging to the regular forces without having fulfilled the conditions enabling him to enlist, enrol, or enter, enrols himself, or enlists in the militia or in any of the reserve forces, not subject to military law, or enters the Royal Navy,

shall be deemed to have been guilty of fraudulent enlistment, and shall on conviction by court-martial be liable—

(i) for the first offence to suffer imprisonment, or such less punishment as is in this Act mentioned; and

(ii) for the second or any subsequent offence to suffer penal servitude, or such less punishment as is in this Act mentioned.

(2.) Where an offender has fraudulently enlisted on several occasions he may, for the purposes of this section, be deemed to belong to any one or more of the corps to which he has been appointed or transferred, as well as to the corps to which he properly belongs; and it shall be lawful to charge an offender with any number of offences against this section at the same time, and to give evidence of such offences against him, and if he be convicted thereof to punish him accordingly; and further it shall be lawful on conviction of a person for two or more such offences to award him the higher punishment allowed by this section for a second offence as if he had been convicted by a previous court-martial of one of such offences.

(3.) Where an offender is convicted of the offence of fraudulent enlistment then for the purposes of his liability under this section to the higher punishment for a second offence, the offence of deserting or attempting to desert Her Majesty's service may be reckoned as a previous offence of fraudulent enlistment under this section, with this exception, that the absence of the offender next before any fraudulent enlistment shall not upon his conviction for that fraudulent enlistment be reckoned as a previous offence of deserting or attempting to desert.

Persuasion of or connivance at desertion.

14. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) assists any person subject to military law to desert Her Majesty's service; or

(2) being cognizant of any desertion or intended desertion of a person subject to military law, does not forthwith give notice to his commanding officer, or take any steps in his power to cause the deserter or intending deserter to be apprehended,

shall on conviction by court-martial be liable to suffer imprisonment, or such less punishment as is in this Act mentioned.

Desertion, fraudulent enlistment and absence without leave.

15. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) absents himself without leave; or

(2) fails to appear at the place of parade or rendezvous appointed by his commanding officer, or goes from thence without leave before he is relieved, or without urgent necessity quits the ranks; or

Absence from duty without leave.

(3) being a soldier, when in camp or garrison or elsewhere, is found beyond any limits fixed or in any place prohibited by any general garrison or other order, without a pass or written leave from his commanding officer; or

(4) being a soldier, without leave from his commanding officer, or without due cause, absents himself from any school when duly ordered to attend there,

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Disgraceful conduct.

Disgraceful Conduct.

16. EVERY officer who, being subject to military law, commits the following offence; that is to say,

Scandalous conduct of officer.

behaves in a scandalous manner, unbecoming the character of an officer and a gentleman,

shall on conviction by court-martial be cashiered.

17. EVERY person subject to military law who commits any of the following offences; that is to say,

Fraud by persons in charge of moneys or goods.

being charged with or concerned in the care or distribution of any public or regimental money or goods, steals, fraudulently misapplies, or embezzles the same, or is concerned in or connives at the stealing, fraudulent misapplication, or embezzlement thereof, or wilfully damages any such goods,

shall on conviction by court-martial be liable to suffer penal servitude, or such less punishment as is in this Act mentioned.

18. EVERY soldier who commits any of the following offences; that is to say,

Disgraceful conduct of soldier.

(1) malingers, or feigns or produces disease or infirmity; or

(2) wilfully maims or injures himself or any other soldier, whether at the instance of such other soldier or not, with intent thereby to render himself or such other soldier unfit for service, or causes himself to be maimed or injured by any person, with intent thereby to render himself unfit for service; or

Disgraceful conduct.

(3) is wilfully guilty of any misconduct, or wilfully disobeys, whether in hospital or otherwise, any orders, by means of which misconduct or disobedience he produces or aggravates disease or infirmity, or delays its cure; or

(4) steals or embezzles or receives knowing them to be stolen or embezzled any money or goods the property of a comrade or of an officer, or any money or goods belonging to any regimental mess or band, or to any regimental institution, or any public money or goods; or

(5) is guilty of any other offence of a fraudulent nature not before in this Act particularly specified, or of any other disgraceful conduct of a cruel, indecent, or unnatural kind,

shall on conviction by court-martial be liable to suffer imprisonment, or such less punishment as is in this Act mentioned.

Drunkenness.

Drunkenness.

Drunkenness.

19. EVERY person subject to military law who commits the following offence; that is to say,

The offence of drunkenness, whether on duty or not on duty,

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned, and, either in addition to or in substitution for any other punishment, to pay a fine not exceeding one pound.

Offences in relation to prisoners.

Offences in relation to Prisoners.

20. EVERY person subject to military law who commits any of the following offences; that is to say,

Permitting escape of prisoner.

(1) when in command of a guard, picket, patrol, or post, releases without proper authority, whether wilfully or otherwise, any prisoner committed to his charge; or

(2) wilfully or without reasonable excuse allows to escape any prisoner who is committed to his charge, or whom it is his duty to keep or guard,

shall on conviction by court-martial be liable if he has acted wilfully to suffer penal servitude, or such less punishment as is in this Act mentioned, and in any case to suffer imprisonment or such less punishment as is in this Act mentioned.

Irregular imprisonment.

21. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) unnecessarily detains a prisoner in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation; or

Offences in relation to prisoners.

(2) having committed a person to the custody of any officer, non-commissioned officer, provost marshal, or assistant provost marshal, fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within twenty-four hours thereafter, to the officer, non-commissioned officer, provost marshal, or assistant provost marshal, into whose custody the person is committed, an account in writing signed by himself of the offence with which the person so committed is charged;

(3) being in command of a guard, does not as soon as he is relieved from his guard or duty, or, if he is not sooner relieved, within twenty-four hours after a prisoner is committed to his charge, give in writing to the officer to whom he may be ordered to report the prisoner's name and offence so far as known to him; and the name and rank of the officer or other person by whom he was charged, accompanied, if he has received the account above in this section mentioned, by that account,

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Escape from confinement.

22. EVERY person subject to military law who commits the following offence; that is to say,

being in arrest or confinement, or in prison or otherwise in lawful custody, escapes, or attempts to escape,

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Offences in relation to Property.

Offences in relation to property.

23. EVERY person subject to military law who commits any of the following offences; that is to say,

Corrupt dealings in respect of supplies to forces.

(1) connives at the exaction of any exorbitant price for a house or stall let to a sutler; or

(2) lays any duty upon, or takes any fee or advantage in respect of, or is in any way interested in, the sale of provisions or merchandise brought into any garrison, camp, station, barrack, or place, in which he has any command or authority, or the sale or purchase of any provisions or stores for the use of any of Her Majesty's forces,

shall on conviction by court-martial be liable to suffer imprisonment, or such less punishment as is in this Act mentioned.

Offences in relation to property.

Deficiency in and injury to equipment.

24. EVERY soldier who commits any of the following offences; that is to say,

(1) makes away with, or is concerned in making away with (whether by pawning, selling, destruction, or otherwise howsoever), his arms, ammunition, equipments, instruments, clothing, regimental necessaries, or any horse of which he has charge; or

(2) loses by neglect anything before in this section mentioned; or

(3) makes away with (whether by pawning, selling, destruction, or otherwise however) any military decoration granted to him; or

(4) wilfully injures anything before in this section mentioned or any property belonging to a comrade, or to an officer, or to any regimental mess or band, or to any regimental institution, or any public property; or

(5) ill-treats any horse used in the public service,

shall on conviction by court-martial be liable to suffer imprisonment, or such less punishment as is in this Act mentioned.

Offences in relation to false documents and statements.

Offences in relation to False Documents and Statements.

25. EVERY person subject to military law who commits any of the following offences; that is to say,

Falsifying official documents and false declarations.

(1) in any report, return, muster roll, pay list, certificate, book, route, or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy—

(*a*) knowingly makes or is privy to the making of any false or fraudulent statement; or

(*b*) knowingly makes or is privy to the making of any omission with intent to defraud; or

(2) knowingly and with intent to defraud or to injure any person suppresses, defaces, alters, or makes away with any document which it is his duty to preserve or produce; or

(3) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration;

shall, on conviction by court-martial, be liable to suffer imprisonment, or such less punishment as is in this Act mentioned.

Neglect to report, and signing in blank.

26. EVERY person subject to military law who commits any of the following offences; this is to say,

(1) when signing any document relating to pay, arms, ammunition, equipments, clothing, regimental necessaries, provisions, furniture, bedding, blankets, sheets, utensils, forage, or stores, leaves in blank any material part for which his signature is a voucher; or

(2) refuses or by culpable neglect omits to make or send a report or return which it is his duty to make or send,

Offences in relation to false documents and statements.

shall, on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

False accusation, or false statement by soldier.

27. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) being an officer or soldier, makes a false accusation against any other officer or soldier, knowing such accusation to be false; or

(2) being an officer or soldier, in making a complaint where he thinks himself wronged, knowingly makes any false statement affecting the character of an officer or soldier, or knowingly and wilfully suppresses any material facts; or

(3) being a soldier, falsely states to his commanding officer that he has been guilty of desertion or of fraudulent enlistment, or of desertion from the Navy, or has served in and been discharged from any portion of the regular forces, reserve forces, or auxiliary forces, or the Navy; or

(4) being a soldier, makes a wilfully false statement to any military officer or justice in respect of the prolongation of furlough,

shall on conviction by court-martial be liable to suffer imprisonment, or such less punishment as is in this Act mentioned.

Offences in relation to Courts-martial.

Offences in relation to courts-martial.

Offences in relation to courts-martial.

28. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) being duly summoned or ordered to attend as a witness before a court-martial, makes default in attending; or

(2) refuses to take an oath or make a solemn declaration legally required by a court-martial to be taken or made; or

(3) refuses to produce any document in his power or control legally required by a court-martial to be produced by him; or

(4) refuses when a witness to answer any question to which a court-martial may legally require an answer; or

(5) is guilty of contempt of a court-martial by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court,

shall, on conviction by a court-martial other than the court in relation to or before whom the offence was committed, be liable, if an officer, to be cashiered,

Offences in relation to courts-martial.

or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned:

Provided that where a person subject to military law is guilty of contempt of a court-martial by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court, that court, if they think it expedient, instead of the offender being tried by another court-martial, may by order under the hand of the president commit such offender to prison, there to be imprisoned, with or without hard labour, for a period not exceeding twenty-one days.

False evidence.

29. EVERY person subject to military law who commits the following offence; that is to say,

when examined on oath or solemn declaration before a court-martial, or any court or officer authorised by this Act to administer an oath, willfully gives false evidence,

shall be liable on conviction by court-martial to suffer imprisonment, or such less punishment as is in this Act mentioned.

Offences in relation to billeting.

Offences in relation to Billeting.

Offences in relation to billeting.

30. Every person subject to military law who commits any of the following offences (in this Act referred to as offences in relation to billeting); that is to say,

(1) Is guilty of any ill-treatment, by violence, extortion, or making disturbances in billets, of the occupier of a house in which any person or horse is billeted; or

(2) being an officer, refuses or neglects, on complaint and proof of such ill-treatment by any officer or soldier under his command, to cause compensation to be made for the same; or

(3) fails to comply with the provisions of this Act with respect to the payment of the just demands of the person on whom he or any officer or soldier under his command, or his or their horses, have been billeted, or to the making up and transmitting of an account of the money due to such person; or

(4) wilfully demands billets which are not actually required for some person or horse entitled to be billeted; or

(5) takes or knowingly suffers to be taken from any person any money or reward for excusing or relieving any person from his liability in respect of the billeting or quartering of officers, soldiers, or horses, or any part of such liability; or

(6) uses or offers any menace to or compulsion on a constable or other civil officer to make him give billets contrary to this Act, or tending

to deter or discourage him from performing any part of his duty under the provisions of this Act relating to billeting, or tending to induce him to do anything contrary to his said duty; or

Offence in relation to billeting.

(7) uses or offers any menace to or compulsion on any person tending to oblige him to receive, without his consent, any person or horse not duly billeted upon him in pursuance of the provisions of this Act relating to billeting, or to furnish any accommodation which he is not thereby required to furnish,

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and, if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Offences in relation to Impressment of Carriages.

Offences in relation tot impressment of carriages

Offences in relation to the impressment of carriages, and their attendants.

31. EVERY person subject to military law who commits any of the following offences (in this Act referred to as offences in relation to the impressment of carriages); that is to say,

(1) wilfully demands any carriages, animals, or vessels which are not actually required for the purposes authorised by this Act; or

(2) fails to comply with the provisions of this Act relating to the impressment of carriages as regards the payment of sums due for carriages or as regards the weighing of the load; or

(3) constrains any carriage, animal, or vessel furnished in pursuance of the provisions of this Act relating to the impressment of carriages to travel against the will of the person in charge thereof beyond the proper distance, or to carry against the will of such person any greater weight than he is required by the said provisions to carry; or

(4) does not discharge as speedily as practicable any carriage, animal, or vessel furnished in pursuance of the provisions of this Act relating to the impressment of carriages; or

(5) compels the person in charge of any such carriage, animal, or vessel, or permits him to be compelled, to take thereon any baggage or stores not entitled to be carried, or, except where the carriage or animal is furnished upon a requisition of emergency, to take thereon any soldier or servant (except such as are sick), or any woman or person; or

(6) ill-treats or permits such person in charge to be ill-treated; or

(7) uses or offers any menace to or compulsion on a constable to make him provide any carriage, animal, or vessel which he is not bound in pursuance of the provisions of this Act relating to the impressment

Offences in relation to impressment of carriages.

of carriages to provide, or tending to deter or discourage him from performing any part of his duty in relation to the providing of carriages, animals, or vessels, or tending to induce him to do anything contrary to his said duty; or

(8) forces any carriage, animal, or vessel from the owner thereof,

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Offences in relation to enlistment.

Offences in relation to Enlistment.

Enlistment of soldier or sailor discharged with ignominy or disgrace.

32. (1.) EVERY person having become subject to military law, who is discovered to have committed the following offence; (that is to say),

having been discharged with disgrace from any part of Her Majesty's forces, or having been dismissed with disgrace from the Navy, has afterwards enlisted in the regular forces without declaring the circumstances of his discharge, or dismissal,

shall on conviction by court-martial be liable to suffer penal servitude, or such less punishment as is in this Act mentioned.

(2.) For the purpose of this section, the expression "discharged with disgrace from any part of Her Majesty's forces" means discharged with ignominy, discharged as incorrigible and worthless, or discharged on account of conviction for felony or of a sentence of penal servitude.

False answers or declarations on enlistment.

33. EVERY person having become subject to military law who is discovered to have committed the following offence; that is to say,

to have made a wilfully false answer to any question set forth in the attestation paper which has been put to him by or by direction of the justice before whom he appears for the purpose of being attested,

shall on conviction by court-martial be liable to suffer imprisonment or such less punishment as is in this Act mentioned.

General offences in relation to enlistment.

34. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) is concerned in the enlistment for service in the regular forces of any man, when he knows or has reasonable cause to believe such man to be so circumstanced that by enlisting he commits an offence against this Act; or

(2) wilfully contravenes any enactments or the regulations of the service in any matter relating to the enlistment or attestation of soldiers of the regular forces,

shall on conviction by court-martial be liable to suffer imprisonment, or such less punishment as is in this Act mentioned.

Miscellaneous Military Offences.

Miscellaneous military offences.

35. EVERY person subject to military law who commits the following offence; that is to say,

Traitorous words.

uses traitorous or disloyal words regarding the Sovereign,

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Injurious disclosures.

36. EVERY person subject to military law who commits the following offence; that is to say,

whether serving with any of Her Majesty's forces or not, without due authority either verbally or in writing or by signal or otherwise, discloses the numbers or position of any forces, or any magazines or stores thereof, or any preparations for, or orders relating to, operations or movements of any forces, at such time and in such manner as in the opinion of the Court to have produced effects injurious to Her Majesty's service,

shall, on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Ill-treating soldier.

37. EVERY officer or non-commissioned officer who commits any of the following offences; that is to say,

(1) strikes or otherwise ill-treats any soldier; or

(2) having received the pay of any officer or soldier, unlawfully detains or unlawfully refuses to pay the same when due,

shall on conviction by court-martial be liable, if an officer, to be cashiered or to suffer such less punishment as is in this Act mentioned, and if a non-commissioned officer, to suffer imprisonment or such less punishment as is in this Act mentioned.

Duelling and attempting to commit suicide.

38. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) fights, or promotes or is concerned in or connives at fighting a duel; or

(2) attempts to commit suicide,

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Miscellaneous military offences.

Refusal to deliver to civil power officers and soldiers accused of civil offences.

39. EVERY person subject to military law who commits any of the following offences; that is to say,

on application being made to him neglects or refuses to deliver over to the civil magistrate, or to assist in the lawful apprehension of, any officer or soldier accused of an offence punishable by a civil court,

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Conduct to prejudice of military discipline.

40. EVERY person subject to military law who commits any of the following offences; that is to say,

is guilty of any act, conduct, disorder, or neglect, to the prejudice of good order and military discipline,

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned. Provided that no person shall be charged under this section in respect of any offence for which special provision is made in any other part of this Act, and which is not a civil offence; nevertheless the conviction of a person so charged shall not be invalid by reason only of the charge being in contravention of this proviso, unless it appears that injustice has been done to the person charged by reason of such contravention; but the responsibility of any officer for that contravention shall not be removed by the validity of the conviction.

Offences punishable by ordinary Law.

Offences punishable by ordinary law.

Offences punishable by ordinary law of England.

41. SUBJECT to such regulations for the purpose of preventing interference with the jurisdiction of the civil courts as are in this Act after mentioned, every person who, whilst he is subject to military law, shall commit any of the offences in this section mentioned shall be deemed to be guilty of an offence against military law, and if charged under this section with any such offence (in this Act referred to as a civil offence) shall be liable to be tried by court-martial, and on conviction to be punished as follows; that is to say,

(1) if he is convicted of treason, be liable to suffer death, or such less punishment as is in this Act mentioned; and

(2) if he is convicted of murder, be liable to suffer death; and

(3) if he is convicted of manslaughter or treason-felony, be liable to suffer penal servitude, or such less punishment as is in this Act mentioned; and

(4) if he is convicted of rape, be liable to suffer penal servitude, or such less punishment as is in this Act mentioned; and

(5) if he is convicted of any offence not before in this Act particularly

specified which when committed in England is punishable by the law of England, be liable, whether the offence is committed in England or elsewhere, either to suffer such punishment as might be awarded to him in pursuance of this Act in respect of an act to the prejudice of good order and military discipline, or to suffer any punishment assigned for such offence by the law of England.

Offences punishable by ordinary law.

Provided as follows:—

(*a.*) A person subject to military law shall not be tried by court-martial for treason, murder, manslaughter, treason-felony, or rape committed in the United Kingdom, and shall not be tried by court-martial for treason, murder, manslaughter, treason-felony, or rape committed in any place within Her Majesty's dominions, other than the United Kingdom and Gibraltar, unless such person at the time he committed the offence was on active service, or such place is more than one hundred miles as measured in a straight line from any city or town in which the offender can be tried for such offence by a competent civil court.

(*b.*) A person subject to military law when in Her Majesty's dominions may be tried by any competent civil court for any offence for which he would be triable if he were not subject to military law.

Redress of Wrongs.

Redress of wrongs.

Mode of complaint by officer.

42. If an officer thinks himself wronged by his commanding officer, and on due application made to him does not receive the redress to which he may consider himself entitled, he may complain to the Commander-in-Chief in order to obtain justice, who is hereby required to examine into such complaint, and through a Secretary of State make his report to Her Majesty in order to receive the directions of Her Majesty thereon.

Mode of complaint by soldier.

43. If any soldier thinks himself wronged in any matter by any officer other than his captain, or by any soldier, he may complain thereof to his captain, and if he thinks himself wronged by his captain, either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to his commanding officer, and if he thinks himself wronged by his commanding officer, either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to the general or other officer commanding the district or station where the soldier is serving; and every officer to whom a complaint is made in pursuance of this section shall cause such complaint to be inquired into, and shall, if on inquiry he is satisfied of the justice of the complaint so made, take such steps as may be necessary for giving full redress to the complainant in respect of the matter complained of.

Punishments.

Punishments.

Scale of punishments by courts-martial.

44. PUNISHMENTS may be inflicted in respect of offences committed by persons subject to military law and convicted by courts-martial,—

In the case of officers, according to the scale following:

a. Death.

b. Penal servitude for a term not less than five years.

c. Imprisonment, with or without hard labour, for a term not exceeding two years.

d. Cashiering.

e. Dismissal from Her Majesty's service.

f. Forfeiture in the prescribed manner of seniority of rank, either in the army or in the corps to which the offender belongs, or in both.

g. Reprimand, or severe reprimand.

In the case of soldiers, according to the scale following:

h. Death.

j. Penal servitude for a term not less than five years.

k. Imprisonment, with or without hard labour, for a term not exceeding two years.

l. Discharge with ignominy from Her Majesty's service.

m. Reduction in the case of a non-commissioned officer to a lower grade, or to the ranks.

n. Forfeitures, fines, and stoppages.

Provided that—

(1.) Where in respect of any offence under this Act there is specified a particular punishment, or such less punishment as is in this Act mentioned, there may be awarded in respect of that offence, instead of such particular punishment (but subject to the other regulations of this Act as to punishments, and regard being had to the nature and degree of the offence) any one punishment lower in the above scales than the particular punishment.

(2.) An officer shall be sentenced to be cashiered before he is sentenced to penal servitude or imprisonment.

(3.) An officer when sentenced to forfeiture of seniority of rank may also be sentenced to reprimand or severe reprimand.

(4.) A soldier when sentenced to penal servitude or imprisonment may, in addition thereto, be sentenced to be discharged with ignominy from Her Majesty's service.

(5.) Where a soldier on active service is guilty of an aggravated offence of drunkenness, or of an offence of disgraceful conduct, or of any offence

punishable with death or penal servitude, it shall be lawful for a court-martial to award for that offence such summary punishment other than flogging as may be directed by rules to be made from time to time by a Secretary of State; and such summary punishment shall be of the character of personal restraint or of hard labour, but shall not be of a nature to cause injury to life or limb, and shall not be inflicted where the confirming officer is of opinion that imprisonment can with due regard to the public service be carried into execution. *Punishments.*

(6.) The said summary punishment shall not be inflicted upon a non-commissioned officer, or upon a reduced non-commissioned officer, for any offence committed while holding the rank of non-commissioned officer.

(7.) "An aggravated offence of drunkenness" for the purposes of this section means drunkenness committed on the march or otherwise on duty, or after the offender was warned for duty, or when by reason of the drunkenness the offender was found unfit for duty; and notwithstanding anything in this Act it shall not be incumbent on the commanding officer to deal summarily with such aggravated offence of drunkenness.

(8.) "An offence of disgraceful conduct" for the purposes of this section means any offence specified in section eighteen of this Act.

(9.) All rules with respect to summary punishment made in pursuance of this section shall be laid before Parliament as soon as practicable after they are made, if Parliament be then sitting, and if Parliament be not then sitting, as soon as practicable after the beginning of the then next session of Parliament.

(10.) For the purpose of commutation of punishment the summary punishment above mentioned shall be deemed to stand in the scale of punishments next below penal servitude.

(11.) In addition to or without any other punishment in respect of any offence, an offender convicted by court-martial may be subject to forfeiture of any deferred pay, service towards pension, military decoration or military reward, in such manner as may for the time being be provided by Royal Warrant, but shall not, save as may be provided by Royal Warrant, be liable to any forfeiture under the Regimental Debts Act, 1863, or under any Act relating to the military savings banks, or any regulations made in pursuance of either of the above-mentioned Acts. 26 & 27 Vict. c. 57.

Punishments.

(12.) In addition to or without any other punishment in respect of any offence, an offender may be sentenced by court-martial to any deduction authorised by this Act to be made from his ordinary pay.

Arrest and Trial.

Arrest.

Arrest.

Custody of persons charged with offences.

45. The following regulations shall be enacted with respect to persons subject to military law when charged with offences punishable under this Act:

(1) Every person subject to military law when so charged may be taken into military custody: Provided, that in every case where any officer or soldier not on active service remains in such military custody for a longer period than eight days without a court-martial for his trial being ordered to assemble, a special report of the necessity for further delay shall be made by his commanding officer in manner prescribed; and a similar report shall be forwarded every eight days until a court-martial is assembled or the officer or soldier is released from custody:

(2) Military custody means, according to the usages of the service, the putting the offender under arrest or the putting him in confinement:

(3) An officer may order into military custody an officer of inferior rank or any soldier, and any non-commissioned officer may order into military custody any soldier, and an officer may order into military custody any officer (though he be of higher rank) engaged in a quarrel, fray, or disorder; and any such order shall be obeyed, notwithstanding the person giving the order and the person in respect of whom the order is given do not belong to the same corps, arm, or branch of the service:

(4) An officer or non-commissioned officer commanding a guard, or a provost marshal or assistant provost-marshal, shall not refuse to receive or keep any person who is committed to his custody by any officer or non-commissioned officer, but it shall be the duty of the officer or non-commissioned officer who commits any person into custody to deliver at the time of such committal or as soon as practicable, and in every case within twenty-four hours thereafter, to the officer, non-commissioned officer, provost-marshal, or assistant provost-marshal into whose custody the person is committed, an account in writing, signed by himself, of the offence with which the person so committed is charged:

(5) The charge made against every person taken into military custody shall without unnecessary delay be investigated by the proper military authority, and, as soon as may be, either proceedings shall be taken for punishing the offence, or such persons shall be discharged from custody. *Arrest.*

Power of Commanding Officer.

Power of commanding officer.

46. (1.) THE commanding officer shall upon an investigation being had of a charge made against a person subject to military law under his command of having committed an offence under this Act, dismiss the charge if he in his discretion thinks that it ought not to be proceeded with, but where he thinks the charge ought to be proceeded with, he may take steps for bringing the offender to a court-martial, or in the case of a soldier may deal with the case summarily. Power of commanding officer.

(2.) Where he deals with a case summarily he may,—

(*a*) award to the offender imprisonment, with or without hard labour, for any period not exceeding seven days; and

(*b*) in the case of the offence of drunkenness, may order the offender to pay a fine not exceeding ten shillings, either in addition to or without imprisonment with or without hard labour; and

(*c*) in addition to or without any other punishment, may order the offender to suffer any deduction from his ordinary pay authorised by this Act to be made by the commanding officer.

(3.) Where the charge is against a soldier for drunkenness not on duty, and it is not an aggravated offence of drunkenness within the meaning of section forty-four of this Act, the commanding officer shall deal with the case summarily unless the soldier was guilty of drunkenness after being warned for duty, or unless he has been guilty of drunkenness on not less than four occasions in the preceding twelve months, but nothing in this sub-section shall affect the jurisdiction of any court-martial.

(4.) In the case of absence without leave, the commanding officer may award imprisonment, with or without hard labour, for any period not exceeding twenty-one days.

(5.) Provided that where imprisonment is awarded for absence without leave the commanding officer shall have regard to the number of days during which the offender has been absent, and in no case shall the term of imprisonment awarded, if exceeding seven days, exceed the term of absence.

(6.) Provided that in every case where the power of summary award by a commanding officer exceeds a sentence of seven days imprisonment, the accused person may demand that the evidence against him should be taken on oath, and

Power of commanding officer.

the same oath or solemn declaration as that required to be taken by witnesses before a court-martial shall be administered to each witness in such case.

(7.) An offender shall not be liable to be tried by court-martial for any offence which has been dealt with summarily by his commanding officer, and shall not be liable to be punished by his commanding officer for any offence of which he has been acquitted or convicted by a competent civil court or by a court-martial.

(8.) A soldier ordered by his commanding officer to suffer imprisonment or pay a fine, or to suffer any deduction from his ordinary pay, shall, if he so request, have a right to be tried by a district court-martial instead of submitting to such imprisonment, fine, or deduction.

(9.) Nothing in this section shall prejudice the power of a commanding officer to award such minor punishments as he is for the time being authorised to award, so, however, that a minor punishment shall not be awarded for any offence for which punishment exceeding seven days is awarded.

Courts-martial.

Regimental courts-martial.

Courts-martial.

47. (1.) ANY officer authorised by or in pursuance of this Act to convene general and district courts-martial or either of them, also any commanding officer of a rank not below the rank of captain, also any officer of a rank not below the rank of captain when in command of two or more corps or portions of two or more corps, also on board a ship, a commanding officer of any rank may, without warrant and by virtue of this Act, convene a regimental court-martial for the trial of offences committed by soldiers under his command.

(2.) Such court-martial shall consist of not less than three officers, each of whom must have held a commission during not less than one whole year.

(3.) The convening officer shall appoint the president.

(4.) The president of a regimental court-martial shall not be under the rank of captain, unless where the court-martial is held on the line of march, or on board any ship, or unless, in the opinion of the convening officer, such opinion to be expressed in the order convening the court and to be conclusive, a captain is not, with due regard to the public service, available, in any of which cases an officer of any rank may be president.

(5.) A regimental court-martial shall not try an officer, nor award the punishment of death or penal servitude, or of imprisonment in excess of forty-two days, or of discharge with ignominy; but, subject as aforesaid, and save as in this Act specially mentioned, any offence under this Act committed by a person subject to military law, and triable by court-martial, may be tried and punished by a regimental court-martial.

Courts-martial.

48. The following rules are enacted with respect to general courts-martial and district courts-martial:

General and district courts-martial.

(1) A general court-martial shall be convened by Her Majesty, or some officer deriving authority to convene a general court-martial immediately or mediately from Her Majesty:

(2) A district court-martial shall be convened by an officer authorised to convene general courts-martial, or some officer deriving authority to convene a district court-martial from an officer authorised to convene general courts-martial:

(3) A general court-martial shall consist in the United Kingdom, India, Malta, and Gibraltar of not less than nine and elsewhere of not less than five officers, each of whom must have held a commission during not less than three whole years, and of whom not less than five must be of a rank not below that of captain:

(4) A district court-martial shall consist in the United Kingdom, India, Malta, and Gibraltar, of not less than five and elsewhere of not less than three officers, each of whom must have held a commission during not less than two whole years:

(5) The minimum number mentioned in this section for a general or a district court-martial shall be the legal minimum for that court-martial:

(6) A district court-martial shall not try a person subject to military law as an officer, nor award the punishment of death or penal servitude; but, subject as aforesaid, any offence under this Act committed by a person subject to military law, and triable by court-martial, may be tried and punished by either a general or district court-martial:

(7) An officer under the rank of captain shall not be a member of a court-martial for the trial of a field officer:

(8) Sentence of death shall not be passed on any prisoner without the concurrence of two-thirds at the least of the officers serving on the court-martial by which he is tried:

(9) The president of a court-martial, whether general or district, shall be appointed by order of the authority convening the court, but he shall not be under the rank of field officer, unless the officer convening the court is under that rank, or unless in the opinion of the officer who convenes the court, such opinion to be expressed in the order convening the court, and to be conclusive, a field officer is not, with due regard to the public service, available, in either of which cases an officer not below the rank of captain may be the president

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of such court-martial, and he shall not be under the rank of captain, except in the case of a district court-martial, where in the opinion of the officer who convenes the court, such opinion to be expressed in the order convening the court, and to be conclusive, a captain is not, having due regard to the public service, available.

Field general courts-martial.

49. (1.) WHERE a complaint is made to any officer in command of any detachment or portion of troops in any country beyond the seas, that an offence has been committed by any person subject to military law under his command against the property or person of any inhabitant of or resident in such country,—

then, if in the opinion of such officer it is not practicable that such offence should be tried by an ordinary general court-martial, it shall be lawful for him, although not authorised to convene general courts-martial, to convene a court-martial, in this Act referred to as a field general court-martial, for the trial of the person charged with such offence, provided as follows:

(*a*) a field general court-martial shall consist of not less than three officers;

(*b*) the convening officer may preside, but he shall, whenever he deems it practicable, appoint another officer as president, who may be of any rank, but shall, if practicable in the opinion of the convening officer, be not below the rank of captain.

(2.) Section forty-eight of this Act shall not apply to a field general court-martial, but sentence of death shall not be passed on any prisoner by a field general court-martial without the concurrence of all the members.

(3.) A field general court-martial may, notwithstanding the restrictions enacted by this Act in respect of the trial by court-martial of civil offences within the meaning of this Act, try any person subject to military law who is under the command of the convening officer and is charged with any such offence as is mentioned in this section, and may award for such offence any sentence which a general court-martial is competent to award for such offence: Provided always, that no sentence of any such court-martial shall be executed until confirmed as provided by this Act.

Courts-martial in general.

50. (1.) THE officers sitting on a court-martial may belong to the same or different corps, or may be unattached to any corps, and may try persons belonging or attached to any corps.

(2.) The officer who convened a court-martial shall not, save as is otherwise expressly provided by this Act, sit on that court-martial.

(3.) Any of the following persons, that is to say, a prosecutor or witness for the prosecution of any prisoner, or the commanding officer of the prisoner within the meaning of the provisions of this Act which relate to dealing with a case summarily, or the officer who investigated the charges on which a

prisoner is arraigned, shall not, save in the case of a field general court-martial, sit on the court-martial for the trial of such prisoner, nor shall he act as judge advocate at such court-martial. *Courts-martial.*

51. (1.) A PRISONER about to be tried by any court-martial may object, for any reasonable cause, to any member of the court, including the president whether appointed to serve thereon originally or to fill a vacancy caused by the retirement of an officer objected to, so that the court may be constituted of officers to whom the prisoner makes no reasonable objection. Challenges by prisoner.

(2.) Every objection made by a prisoner to any officer shall be submitted to the other officers appointed to form the court.

(3.) If the objection is to the president, such objection, if allowed by one-third or more of the other officers appointed to form the court, shall be allowed, and the court shall adjourn for the purpose of the appointment of another president.

(4.) If an objection to the president is allowed, the authority convening the court shall appoint another president, subject to the same right of the prisoner to object.

(5.) If the objection is to a member other than the president, and is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the prisoner to object.

(6.) In order to enable a prisoner to avail himself of his privilege of objecting to any officer, the names of the officers appointed to form the court shall be read over in the hearing of the prisoner on their first assembling, and before they are sworn, and he shall be asked whether he objects to any of such officers, and a like question shall be repeated in respect of any officer appointed to serve in lieu of a retiring officer.

52. (1.) AN oath shall be administered by the prescribed person to every member of every court-martial before the commencement of the trial in the following form; that is to say, Administration of oaths.

'You do swear, that you will well and truly try the 'prisoner [*or* prisoners] before the court according to the evidence, and that 'you will duly administer justice according to the Army Act now in force, 'without partiality, favour, or affection, and you do further swear that you 'will not divulge the sentence of the court until it is duly confirmed, and you 'do further swear that you will not on any account at any time whatsoever 'disclose or discover the vote or opinion of any particular member of this 'court-martial, unless thereunto required in due course of law. So help 'you God.'

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(2.) An oath in the prescribed form or forms shall be administered by the prescribed person to the judge advocate or person officiating as judge advocate (if any), and also to every officer in attendance on a court-martial for the purpose of instruction (if any), and also to every short-hand writer (if any) in attendance on the court-martial.

(3.) Every witness before a court-martial shall be examined on oath, which the president or other prescribed person shall administer in the prescribed form.

(4.) If a person by this Act required either as a member of, or person in attendance on, or witness before a court-martial, or otherwise in respect of a court-martial, to take an oath, objects to take an oath, or is objected to as incompetent to take an oath, the court if satisfied of the sincerity of the objection, or, where the competence of the person to take an oath is objected to, of the oath having no binding effect on the conscience of such person, shall permit such person instead of being sworn to make a solemn declaration in the prescribed form, and for the purposes of this Act such solemn declaration shall be deemed to be an oath.

Procedure.

53. (1.) If a court-martial after the commencement of the trial is, by death or otherwise, reduced below the legal minimum, it shall be dissolved.

(2.) If after the commencement of the trial the president dies or is otherwise unable to attend, and the court is not reduced below the legal minimum, the convening authority may appoint the senior member of the court, if of sufficient rank, to be president, and the trial shall proceed accordingly; but if he is not of sufficient rank the court shall be dissolved.

(3.) If, on account of the illness of the prisoner before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(4.) Where a court-martial is dissolved under the foregoing provisions of this section the prisoner may be tried again.

(5.) The president of any court-martial may, on any deliberation amongst the members, cause the court to be cleared of all other persons.

(6.) The court may adjourn from time to time.

(7.) The court may also, where necessary, view any place.

(8.) In the case of an equality of votes on the finding the prisoner shall be deemed to be acquitted. In the case of an equality of votes on the sentence, or any question arising after the commencement of the trial except the finding, the president shall have a second or casting vote.

(9.) When a court-martial recommend a prisoner to mercy, such recommendation shall be attached to and form part of the proceedings of the court, and shall be promulgated and communicated to the prisoner, together with the finding and sentence.

Courts-martial.

Confirmation, revision, and approval of sentences.

54. (1.) THE following authorities shall have power to confirm the findings and sentences of courts-martial; that is to say,

(*a*) in the case of a regimental court-martial, the convening officer or officer having authority to convene such a court-martial at the date of the submission of the finding and sentence thereof:

(*b*) in the case of a general court-martial, Her Majesty, or some officer deriving authority to confirm the findings and sentences of general courts-martial immediately or mediately from Her Majesty:

(*c*) in the case of a district court-martial, an officer authorised to convene general courts-martial, or some officer deriving authority to confirm the findings and sentences of district courts-martial from an officer authorised to convene general courts-martial:

(*d*) in the case of a field general court-martial, an officer authorised to confirm the findings and sentences of general courts-martial for the trial of offences in the force of which the detachment or portion of troops under the command of the convening officer forms part.

(2.) The authority having power to confirm the finding and sentence of a court-martial may send back such finding and sentence, or either of them, for revision once, but not more than once, and it shall not be lawful for the court on any revision to receive any additional evidence; and where the finding only is sent back for revision, the court shall have power without any direction to revise the sentence also. In no case shall the authority recommend the increase of a sentence, nor shall the court-martial on revisal of the sentence, either in obedience to the recommendation of an authority, or for any other reason, have the power to increase the sentence awarded.

(3.) The finding of acquittal, whether on all or some of the offences with which the prisoner is charged, shall not require confirmation or be subject to be revised, and if it relates to the whole of the offences shall be pronounced at once in open court, and the prisoner shall be discharged.

(4.) A member of a court-martial shall not have authority to confirm the finding or sentence of that court-martial, and where a member of a court-martial becomes confirming officer he shall refer the finding and sentence of the court-martial to a superior authority competent to confirm the findings and sentences of the like description of courts-martial, and that authority shall, for the purposes of this Act, be deemed to be in that instance the confirming authority; and where a court-martial is held in a colony, and there is no such superior authority in that colony, the governor of that colony shall have power to confirm the finding and sentence of such court-martial in like manner in all respects as if he were such superior authority as above mentioned.

(5.) An officer having authority to confirm the finding and sentence of a

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court-martial may withhold his confirmation wholly or partly, and refer such finding and sentence or the part not confirmed to any superior authority competent to confirm the findings and sentences of the like description of courts-martial, and that authority shall for the purposes of this Act be deemed to be in that instance and to the extent of such reference the confirming authority.

(6.) Subject to the provisions of this Act with respect to the finding of acquittal, the finding and sentence of a court-martial shall not be valid except in so far as the same may be confirmed by an authority authorised to confirm the same.

(7.) Sentence of death when passed in a colony shall not, unless passed in respect of an offence committed on active service, be carried into effect unless, in addition to the confirmation otherwise required by this Act, it is approved by the governor of the colony.

(8.) Sentence of death when passed in India in respect of the offence of treason or murder shall not (except where the offence was committed on active service) be carried into effect unless, in addition to the confirmation otherwise required by this Act, it is approved by the Governor-General, or if the offender was tried within the limits of any presidency, by the Governor-General or the governor of that presidency.

(9.) When a person subject to military law is convicted of manslaughter or rape, or any other civil offence under the section of this Act relating to the trial by court-martial of civil offences, and is sentenced to penal servitude, such sentence shall not be carried into execution unless, in addition to the confirmation otherwise required by this Act, it is approved, if the offender has been tried in India by the Governor-General, or if the offender has been tried within the limits of any presidency, by the Governor-General or by the governor of the presidency, or if he has been tried in a colony, by the governor of the colony.

Summary court-martial.

55. (1.) WHERE a person subject to military law and being on active service with any body of forces is charged with an offence, a summary court-martial may be convened and shall have jurisdiction to try such offence, if the officer convening the court is of opinion that an ordinary court-martial cannot, having due regard to the public service, be convened to try such offence.

(2.) A summary court-martial shall be convened and constituted, and the members and witnesses sworn, and its proceedings conducted, and its finding and sentence confirmed in such manner as may be provided by this section and rules from time to time made in pursuance of this Act; and sections fifty to fifty-four (both inclusive) of this Act, shall not apply to such court-martial; provided that,—

(*a*) a summary court-martial shall consist of not less than three officers,

unless the officer convening the same is of opinion that three officers are not available, having due regard to the public service, in which case the court-martial may consist of two officers; and *Courts-martial.*

(*b*) where a summary court-martial consists of less than three officers the sentence shall not exceed such summary punishment as is allowed by this Act, or imprisonment; and

(*c*) a sentence of death or penal servitude awarded by a summary court-martial shall not be carried into effect unless and until it has been confirmed by the general or field officer commanding the force with which the prisoner is present at the date of his sentence.

56. (1.) A PRISONER charged before a court-martial with stealing may be found guilty of embezzlement or of fraudulently misapplying money or property. *Conviction of less offence permissible on charge of greater.*

(2.) A prisoner charged before a court-martial with embezzlement may be found guilty of stealing or fraudulently misapplying money or property.

(3.) A prisoner charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

(4.) A prisoner charged before a court-martial with attempting to desert may be found guilty of desertion or of being absent without leave.

(5.) A prisoner charged before a court-martial with any other offence under this Act may, on failure of proof of an offence being committed under circumstances involving a higher degree of punishment, be found guilty of the same offence as being committed under circumstances involving a less degree of punishment.

Execution of Sentence.

Execution of sentence.

Commutation and remission of sentences.

57. (1.) THE confirming authority may, when confirming the sentence of any court-martial, mitigate or remit the punishment thereby awarded, or commute such punishment for any less punishment or punishments to which the offender might have been sentenced by the said court-martial. The confirming authority may also suspend for such time as seems expedient the execution of a sentence.

(2.) When a sentence passed by a court-martial has been confirmed, the following authorities shall have power to mitigate or remit the punishment thereby awarded, or to commute such punishment for any less punishment or punishments to which the offender might have been sentenced by the said court-martial; that is to say,

(*a*) as respects persons undergoing sentence in any place whatever, Her Majesty or the Commander-in-Chief or the officer commanding the district or station where the prisoner subject to such punishment may for the time be, or any prescribed officer; and

Execution of sentence.

(*b*) as respects persons undergoing sentences in India, the Commander-in-Chief of the forces in India, also as respects persons undergoing sentences in any presidency, the Commander-in-Chief of the forces in that presidency; and

(*c*) as respects persons undergoing sentences in any colony, the officer commanding the forces in that colony; and

(*d*) as respects persons undergoing sentences in any place not in the United Kingdom, India, or a colony, the officer commanding the forces in such place:

(3.) Provided that the power given by this section shall not be exercised by an officer holding a command inferior to that of the authority confirming the sentence, unless such officer is authorised by such confirming authority or other superior military authority to exercise such power.

(4.) An authority having power under this section to mitigate, remit, or commute any punishment may, if it seem fit, do all or any of those things in respect of a person subject to such punishment.

(5.) The provisions of this Act with respect to an original sentence of penal servitude or imprisonment shall apply to a sentence of penal servitude or imprisonment imposed by way of commutation.

Effect of sentence of penal servitude.

58. WHEN a person subject to military law is convicted by a court-martial, whether in the United Kingdom or elsewhere, either within or without Her Majesty's dominions, and is sentenced to penal servitude, such conviction and sentence shall be of the same effect as if such person (in this Act referred to as a military convict) had been convicted in the United Kingdom of an offence punishable by penal servitude and sentenced to penal servitude by a competent civil court, and all enactments relating to a person sentenced to penal servitude by a competent civil court shall, so far as circumstances admit, apply accordingly.

Execution of sentences of penal servitude passed in the United Kingdom.

59. (1.) WHERE a sentence of penal servitude is passed by a court-martial in the United Kingdom, the military convict on whom such sentence has been passed shall, as soon as practicable, be transferred to a penal servitude prison to undergo his sentence according to law, and until so transferred shall be kept in military custody.

(2.) The order of the committing authority (hereafter in this section mentioned) shall be a sufficient warrant for his transfer to a penal servitude prison.

(3.) At any time before his arrival at a penal servitude prison, the discharging authority (hereafter in this section mentioned) may by order discharge the military convict.

Execution of sentence.

(4.) Any one or more of the following officers shall be the committing authority for the purposes of this section, namely,—

(*a*) the Commander-in-Chief,

(*b*) the Adjutant General,

(*c*) the commanding officer of the military convict, and

(*d*) any other prescribed officer.

(5.) Any one of the following officers shall be the discharging authority for the purposes of this section, namely,—

(*a*) the Commander-in-Chief,

(*b*) the Adjutant General, and

(*c*) any other prescribed officer.

Execution of sentences of penal servitude passed in India or a colony.

60. (1.) WHERE a sentence of penal servitude is passed by a court-martial in India or any colony, the military convict on whom such sentence has been passed shall, as soon as practicable, be transferred to a penal servitude prison to undergo his sentence according to law.

(2.) The order of the committing authority (hereafter in this section mentioned) shall be a sufficient warrant for his transfer to a penal servitude prison.

(3.) The military convict during the period which intervenes between the passing of his sentence and his arrival at the penal servitude prison (in this section referred to as the term of his intermediate custody) shall be deemed to be in legal custody.

(4.) The military convict during his term of intermediate custody may be kept in military custody or in civil custody, or partly in one description of custody and partly in the other, and may from time to time be transferred from military custody to civil custody and from civil custody to military custody as occasion may require, and may, during his conveyance from place to place, or when on board ship or otherwise, be subjected to such restraint as is necessary for his detention and removal.

(5.) "Civil custody," for the purposes of this section, means custody in any authorised prison; nevertheless, where it is not practicable to place the military convict in an authorised prison, he may, by way of civil custody, be confined temporarily in any other prison with the assent of the authority having jurisdiction over that prison.

(6.) The military convict whilst in any prison in which he may legally be placed may be dealt with, in respect of hard labour and otherwise, according to the rules of that prison.

(7.) An order of the removing authority (hereafter in this section mentioned) shall be a sufficient authority for the transfer of the military convict from military custody to civil custody and from civil custody to military

Execution of sentence.

custody, and his removal from place to place, and for his detention in civil custody, and generally for dealing with such convict in such manner as may be thought expedient during the term of his intermediate custody.

(8.) The removing authority during the term of the intermediate custody of the military convict may from time to time by order provide for his being brought before a court-martial, or any civil court, either as a witness or for trial or otherwise, and an order of such authority shall be a sufficient warrant for the delivering him into military custody, and detaining him in custody until he can be returned, and for returning him to the place from whence he is brought, or to such other place as may be determined by the removing authority.

(9.) Any directions of the removing authority relating to the mode in which the military convict is to be dealt with during the term of his intermediate custody may be contained in the same order or in several orders; and if the orders are more than one, they may be by different officers and at different times.

(10.) At any time before the military convict arrives at a penal servitude prison the discharging authority (hereafter in this section mentioned) may by order discharge the military convict.

(11.) Any one or more of the following officers shall be the committing authority for the purposes of this section; that is to say,

(*a*) in India—

(i) the Commander-in-Chief of the forces in India;

(ii) the Commander-in-Chief in the forces in any presidency in India;

(iii) the Adjutant General in India;

(iv) the Adjutant General in any presidency in India: and

(*b*) in a colony, the officer commanding the forces in that colony; and

(*c*) in any case, whether in India or in a colony, the prescribed officer.

(12.) Any one or more of the following officers shall be the removing authority for the purposes of this section; that is to say,

(*a*) any officer in this section named as the committing authority; also

(*b*) the officer commanding the military district or station where the military convict may for the time being be; also

(*c*) any other prescribed officer.

(13.) Any of the following officers shall be the discharging authority for the purposes of this section; that is to say,

(*a*) the officer who confirmed the sentence; also

(*b*) any officer in this section named as the committing authority; also

(*c*) any other prescribed officer.

Execution of sentences of

61. (1.) WHERE a sentence of penal servitude is passed by a court-martial

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in any foreign country, the military convict on whom such sentence has been passed shall as soon as practicable be transferred to a penal servitude prison for the purpose of undergoing his sentence according to law, and, until so transferred, may be kept in military custody.

Penal servitude passed in a foreign country.

(2.) The order of the committing authority (hereafter in this section mentioned) shall be a sufficient warrant for the transfer of the military convict to a penal servitude prison.

(3.) If at any time before his arrival in the United Kingdom the military convict is brought into India or any colony, he may be dealt with by the competent military authority in India or such colony in the same manner in all respects as if he had been there sentenced by court-martial to penal servitude.

(4.) The military convict may at any time before he arrives at any place in the United Kingdom, India, or any colony, be discharged by the discharging authority (hereafter in this section mentioned) having jurisdiction in any place where the military convict may for the time being be.

(5.) Any one or more of the following officers shall be the committing authority for the purposes of this section; that is to say,

(*a*) the officer commanding the army or force with which the military convict was serving at the time of his being sentenced;

(*b*) the officer who confirmed the sentence of the court;

(*c*) any other prescribed officer.

(6.) Any committing authority under this section shall also be the discharging authority for the purposes of this section.

General provisions applicable to penal servitude.

62. (1.) A PENAL servitude prison for the purposes of the provisions of this Act relating to penal servitude means any prison or place in which a prisoner sentenced to penal servitude by a civil court in the United Kingdom can for the time being be confined, either permanently or temporarily.

(2.) An "authorised prison" for the purposes of the provisions of this Act relating to penal servitude means any prison in India or any colony which the Governor-General of India or the governor of such colony may, with the concurrence of a Secretary of State, have appointed as a prison in which military convicts may, during the period of their intermediate custody, be confined.

(3.) After a military convict has arrived at the penal servitude prison to undergo his sentence, he shall be dealt with in the like manner as an ordinary civil prisoner under sentence of penal servitude.

Execution of sentences of imprisonment.

63. (1.) WHERE a sentence of imprisonment is passed by court-martial or a commanding officer, the person on whom such sentence has been passed (in the provisions of this Act relating to imprisonment referred to as a military

Execution of sentence.

prisoner) shall undergo the term of his imprisonment either in military custody or in a public prison, or partly in one way and partly in the other.

(2.) The order of the committing authority hereafter mentioned shall be a sufficient warrant for the transfer of a military prisoner to a public prison.

(3.) A military prisoner while in a public prison shall be confined, kept to hard labour, and otherwise dealt with in the like manner as an ordinary prisoner under a like sentence of imprisonment.

(4.) A military prisoner during his conveyance from place to place, or when on board ship or otherwise, may be subjected to such restraint as is necessary for his detention and removal.

(5.) The discharging authority hereafter mentioned may, at any time during the period of a military prisoner undergoing his imprisonment, by order discharge the prisoner.

(6.) The committing authority or any other prescribed authority may at any time by order remove a military prisoner from one public prison to another, so that he be not removed from a prison in the United Kingdom to a prison elsewhere.

(7.) The removing authority hereafter mentioned may, at any time during the period of the military prisoner undergoing his sentence in a public prison, from time to time by order, provide for his being brought before a court-martial, or any civil court, either as a witness, or for trial or otherwise, and an order of such authority shall be a sufficient warrant for delivering him into military custody and detaining him in custody until he can be returned and for returning him to the place from whence he is brought, or to such other place as may be determined by the removing authority.

Supplemental provisions as to sentences of imprisonment passed or being undergone in the United Kingdom.

64. WHERE a sentence of imprisonment is passed or is being undergone in the United Kingdom, then for the purposes of the provisions of this Act relating to imprisonment—

(1) the expression "public prison" means any prison in the United Kingdom in which offenders sentenced by a civil court to imprisonment can for the time being be confined:

(2) any one or more of the following officers shall be the committing authority:

(*a*) the Commander-in-Chief;

(*b*) the Adjutant-General;

(*c*) the officer who confirmed the sentence;

(*d*) the commanding officer of the military prisoner; and

(*e*) any other prescribed officer:

(3) any one of the following officers shall be the discharging authority: *Execution of sentence.*

(*a*) the Commander-in-Chief;

(*b*) the Adjutant-General;

(*c*) the officer commanding the military district in which the prisoner may be;

(*d*) the officer who confirmed the sentence;

(*e*) any other prescribed officer; also,

(*f*) where the sentence was passed by the commanding officer, the commanding officer:

(4) any one or more of the following officers shall be the removing authority:

(*a*) the Commander-in-Chief;

(*b*) the Adjutant-General;

(*c*) the officer commanding the military district in which the prisoner may be;

(*d*) any other prescribed officer; also,

(*e*) where the sentence was passed by the commanding officer, the commanding officer.

65. WHERE a sentence of imprisonment is passed or being undergone in India or any colony, then, for the purposes of the provisions of this Act relating to imprisonment— *Supplemental provision as to sentences of imprisonment passed or being undergone in India or colony.*

(1) the expression "public prison" means any of the following prisons; that is to say—

(*a*) where the sentence was passed in India, any authorised prison in India;

(*b*) where the sentence was passed in a colony, any authorised prison in that colony;

(*c*) any such authorised prison in any part of Her Majesty's dominions other than that in which the sentence was passed as may be prescribed; and

(*d*) any public prison in the United Kingdom as above defined for the purpose of the provisions of this Act relating to imprisonment in the United Kingdom:

(2) "authorised prison" means any prison in India or any colony which the Governor-General of India or the governor of such colony, with the concurrence of the Secretary of State, may have appointed as a prison in which military prisoners may be confined:

(3) a military prisoner may temporarily be confined in a prison not a public prison, with the assent of the authority having jurisdiction over such prison. And a military prisoner, who is to undergo his

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sentence in the United Kingdom until he reaches a prison in the United Kingdom, in which he is to undergo his sentence, may be kept in military custody or in civil custody, and partly in one description of custody and partly in the other, and may from time to time be transferred from military custody to civil custody, and from civil custody to military custody, as occasion may require:

(4) any one or more of the following officers shall be the committing authority; that is to say,

(*a*) in India—

(i) the Commander-in-Chief of the forces in India;

(ii) the Commander-in-Chief of the forces in any presidency in India;

(iii) the Adjutant-General in India; and

(iv) the Adjutant-General in any presidency in India;

(*b*) in a colony, the officer commanding the forces in that colony; and

(*c*) in any case, whether in India or in a colony—

(i) the officer who confirmed the sentence;

(ii) the commanding officer of the military prisoner; and

(iii) any other prescribed officer:

(5) any of the following officers shall be the discharging authority:

(*a*) the officer commanding the military district or station in which the prisoner may be;

(*b*) any officer in this section named as a committing authority, with this exception, that the commanding officer shall only be a discharging authority where the sentence was passed by a commanding officer; and

(*c*) any other prescribed officer:

(6) any one or more of the following officers shall be the removing authority:

(*a*) any officer in this section named as a committing authority;

(*b*) the officer commanding the military district or station where the prisoner may be, and

(*c*) any other prescribed officer.

Supplemental provision as to sentences of imprisonment passed in a foreign country.

66. WHERE a sentence of imprisonment is passed by a court-martial or commanding officer in any foreign country, then if and as soon as the military prisoner on whom such sentence has been passed is brought into the United Kingdom or India, or any colony, the provisions of this Act shall apply in the same manner in all respects as if the sentence of imprisonment had been passed in the United Kingdom, India, or any colony, as the case may be, with this addition, that the officer commanding the army or force to which the

military prisoner belonged at the time of his being sentenced shall also be deemed to be a committing authority. *Execution of sentence.*

67. (1.) THE competent military authority (hereafter in this section mentioned) may give directions for the delivery into military custody of any military prisoner for the time being undergoing his sentence of imprisonment, and the removal of such prisoner, whether with his corps or separately, to any place beyond the seas where the corps, or any part thereof, to which for the time being he belongs, is serving or under orders to serve. Removal of prisoner to place where corps is serving.

(2.) The directions of such competent military authority, or an order of the removing authority issued in pursuance of such directions, shall be sufficient authority for the removal of such prisoner from the prison in which he is confined, and for his conveyance in military custody to any place designated, and for his intermediate custody during such removal and conveyance.

(3.) The competent military authority may further give directions for the discharge of the prisoner either conditionally or unconditionally at any time while he is in military custody under this section.

(4.) For the purposes of this section any one or more of the following officers shall be the competent military authority:

(*a*) in the United Kingdom—

(i) the Commander-in-Chief;

(ii) the Adjutant-General; and

(iii) any other prescribed officer:

(*b*) in India—

(i) the Commander-in-Chief of the forces in India;

(ii) the Commander-in-Chief of the forces in any presidency in India;

(iii) the Adjutant-General in India; and

(iv) the Adjutant-General in any presidency in India;

(*c*) in a colony, the officer commanding the forces in that colony; and

(*d*) in any case, whether in India or in a colony, the prescribed officer.

68. (1.) THE term of penal servitude or imprisonment to which a person is sentenced by a court-martial, whether the sentence has been revised or not, and whether the prisoner is already undergoing sentence or not, shall be reckoned to commence on the day on which the original sentence and proceedings were signed by the president of the court-martial. Commencement of term of penal servitude or imprisonment.

(2.) An offender under this Act shall not be subject to imprisonment for more than two consecutive years, whether under one or more sentences.

MISCELLANEOUS.

Articles of War and Rules of Procedure.

Articles of War and rules of procedure.

69. IT shall be lawful for Her Majesty to make Articles of War for the Power of Her

Articles of War and Rules of Procedure.

better government of officers and soldiers, and such Articles shall be judicially taken notice of by all judges and in all courts whatsoever: Provided that no person shall, by such Articles of War, be subject to suffer any punishment extending to life or limb, or to be kept in penal servitude, except for crimes which are by this Act expressly made liable to such punishment as aforesaid, or be subject, with reference to any crimes made punishable by this Act, to be punished in any manner which does not accord with the provisions of this Act.

Majesty to make Articles of War.

Power of Her Majesty to make rules of procedure.

70. (1.) SUBJECT to the provisions of this Act Her Majesty may, by rules to be signified under the hand of a Secretary of State, from time to time make, and when made repeal, alter, or add to, provisions in respect of the following matters or any of them; that is to say,

(*a*) the assembly and procedure of courts of inquiry;

(*b*) the convening and constituting of courts-martial;

(*c*) the adjournment, dissolution, and sittings of courts-martial;

(*d*) the procedure to be observed in trials by court-martial;

(*e*) the confirmation and revision of the findings and sentences of courts-martial;

(*f*) the carrying into effect sentences of courts-martial;

(*g*) the forms of orders to be made under the provisions of this Act relating to courts-martial, penal servitude, or imprisonment;

(*h*) any matter in this Act directed to be prescribed;

(*i*) any other matter or thing expedient or necessary for the purpose of carrying this Act into execution so far as relates to the investigation, trial, and punishment of offences triable or punishable by military law:

(2.) Provided always, that no such rules shall contain anything contrary to or inconsistent with the provisions of this Act.

(3.) All rules made in pursuance of this section shall be judicially noticed.

(4.) All rules made in pursuance of this section shall be laid before Parliament as soon as practicable after they are made, if Parliament be then sitting, and if Parliament be not then sitting, as soon as practicable after the beginning of the then next session of Parliament.

Command.

Command.

Removal of doubts as to military command.

71. (1.) FOR the purpose of removing doubts as to the powers of command vested or to be vested in officers and others belonging to Her Majesty's forces, it is hereby declared that Her Majesty may, in such manner as to Her Majesty may from time to time seem meet, make regulations as to the persons

to be invested as officers, or otherwise, with command over Her Majesty's forces, or any part thereof, or any person belonging thereto, and as to the mode in which such command is to be exercised; provided that command shall not be given to any person over a person superior in rank to himself. *Command.*

(2.) Nothing in this section shall be deemed to be in derogation of any power otherwise vested in Her Majesty.

Inquiry as to and Confession of Desertion.

Inquiry as to and confession of desertion.

Inquiry by court on absence of soldier.

72. (1.) WHEN any soldier has been absent without leave from his duty for a period of twenty-one days, a court of inquiry may as soon as practicable be assembled, and inquire in the prescribed manner on oath or solemn declaration (which such court is hereby authorised to administer) respecting the fact of such absence, and the deficiency (if any) in the arms, ammunition, equipments, instruments, regimental necessaries, or clothing of the soldier, and if satisfied of the fact of such soldier having absented himself without leave or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any, and the commanding officer of the absent soldier shall enter in the regimental books a record of the declaration of such court.

(2.) If the absent soldier does not afterwards surrender or is not apprehended, such record shall have the legal effect of a conviction by court-martial for desertion.

Confession by soldier of desertion or fraudulent enlistment.

73. (1.) WHERE a soldier signs a confession that he has been guilty of desertion or of fraudulent enlistment, a competent military authority may, by the order dispensing with his trial by a court-martial, or by any subsequent order, award the same forfeitures and the same deductions from pay (if any) as a court-martial could award for the said offence, or as are consequential upon conviction by a court-martial for the said offence, except such of them as may be mentioned in the order.

(2.) If upon any such confession, evidence of the truth or falsehood of such confession cannot then be conveniently obtained, the record of such confession, countersigned by the commanding officer of the soldier, shall be entered in the regimental books, and such soldier shall continue to do duty in the corps in which he may then be serving, or in any other corps to which he may be transferred, until he is discharged or transferred to the reserve, or until legal proof can be obtained of the truth or falsehood of such confession.

(3.) The competent military authority for the purposes of this section means the Commander-in-Chief or Adjutant-General, or, in the case of India, the Commander-in-Chief of the forces in India, or the Commander-in-Chief of the forces of any presidency in India, and in the case of a colony and else-

Inquiry as to and confession of desertion.

where the general or other officer commanding the forces, subject in the case of India, or a colony, or elsewhere, to any directions given by the Commander-in-Chief.

Provost Marshal.

Provost marshal.

Provost marshal.

74. (1.) FOR the prompt repression of all offences which may be committed abroad, provost marshals with assistants may from time to time be appointed by the general order of the general officer commanding a body of forces.

(2.) A provost marshal or his assistants may at any time arrest and detain for trial persons subject to military law committing offences and may also carry into execution any punishments to be inflicted in pursuance of a court-martial, but shall not inflict any punishment of his or their own authority.

Restitution of Stolen Property.

Restitution of stolen property.

Power as to restitution of stolen property.

75. (1.) WHERE a person has been convicted by court-martial of having stolen, embezzled, received, knowing it to be stolen, or otherwise unlawfully obtained, any property, and the property or any part thereof is found in the possession of the offender, the authority confirming the finding and sentence of such court-martial or the Commander-in-Chief, may order the property so found to be restored to the person appearing to be the lawful owner thereof.

(2.) A like order may be made with respect to any property found in the possession of such offender, which appears to the confirming authority or Commander-in-Chief to have been obtained by the conversion or exchange of any of the property stolen, embezzled, received, or unlawfully obtained.

(3.) Moreover where it appears to the confirming authority or Commander-in-Chief from the evidence given before the court-martial, that any part of the property stolen, embezzled, received, or unlawfully obtained was sold to or pawned with any person without any guilty knowledge on the part of the person purchasing or taking in pawn the property, the authority or Commander-in-Chief may, on the application of that person, and on the restitution of the said property to the owner thereof, order that out of the money (if any) found in the possession of the offender, a sum not exceeding the amount of the proceeds of the said sale or pawning shall be paid to the said person purchasing or taking in pawn.

(4.) An order under this section shall not bar the right of any person, other than the offender, or any one claiming through him, to recover any property or money delivered or paid in pursuance of an order under this section from the person to whom the same is so delivered or paid.

PART II.

ENLISTMENT.

Period of Service.

Period of service.

Limit of original enlistment.

76. A PERSON may be enlisted to serve Her Majesty as a soldier of the regular forces for a period of twelve years, or for such less period as may be from time to time fixed by Her Majesty, but not for any longer period, and the period for which a person enlists is in this Act referred to as the term of his original enlistment.

Terms of original enlistment.

77. THE original enlistment of a person under this Act shall be as follows, either :—

(1) for the whole of the term of his original enlistment in army service; or

(2) for such portion of the term of his original enlistment as may be from time to time fixed by a Secretary of State, and specified in the attestation paper, in army service, and for the residue of the said term in the reserve.

Change of conditions of service.

78. (1.) A SECRETARY of State may from time to time, by general or special regulations, vary the conditions of service, so as to permit a soldier of the regular forces in army service, with his assent, either—

(*a*) to enter the reserve at once for the residue unexpired of the term of his original enlistment ; or

(*b*) to extend his army service for all or any part of the residue unexpired of such term ; or

(*c*) to extend the term of his original enlistment up to the period of twelve years.

(2.) A Secretary of State may from time to time, by general or special regulations, vary the conditions of service so as to permit a man in the reserve, with his assent, to re-enter upon army service for all or any part of the residue unexpired of the term of his original enlistment, or for any period of time not exceeding twelve years in the whole from the date of his original enlistment.

Reckoning and forfeiture of service.

79. IN reckoning the service of a soldier of the regular forces for the purpose of discharge or of transfer to the reserve—

(1) the service shall begin to reckon from the date of his attestation; but

(2) where a soldier of the regular forces has been guilty of any of the following offences :

(*a*) desertion from Her Majesty's service, or

Period of service.

(*b*) fraudulent enlistment,

then either upon his conviction by court-martial of the offence, or (if, having confessed the offence, he is liable to be tried) upon his trial being dispensed with by order of the competent military authority, the whole of his prior service shall be forfeited, and he shall be liable to serve as a soldier of the regular forces for the term of his original enlistment, reckoned from the date of such conviction or such order dispensing with trial, in like manner as if he had been originally attested at that date:

Provided that a Secretary of State may restore all or any part of the service forfeited under this section to any soldier who may perform good and faithful service, or may otherwise be deemed by such Secretary of State to merit such restoration of service, or may be recommended for such restoration of service by a court-martial.

Proceedings for enlistment.

Proceedings for Enlistment.

Mode of enlistment and attestation.

80. (1.) EVERY person authorised to enlist recruits in the regular forces (in this Act referred to as the "recruiter") shall give to every person offering to enlist a notice in the form for the time being authorised by a Secretary of State, stating the general requirements of attestation and the general conditions of the contract to be entered into by the recruit, and directing such person to appear before a justice of the peace at the time and place therein mentioned.

(2.) Upon the appearance before a justice of the peace of a person offering to enlist, the justice shall ask him whether he assents to be enlisted, and shall not proceed with the enlistment if he considers the recruit under the influence of liquor.

(3.) If he does not appear before a justice, or on appearing does not assent to be enlisted, no further proceedings shall be taken.

(4.) If he assents to be enlisted—

(*a*) the justice, after cautioning such person that if he makes any false answer to the questions read to him he will be liable to be punished as provided by this Act, shall read or cause to be read to him the questions set forth in the attestation paper for the time being authorised by a Secretary of State, and shall take care that such person understands each question so read, and after ascertaining that the answer of such person to each question has been duly recorded opposite the same in the attestation paper, shall require him to make and sign the declaration as to the truth of those answers set forth in the said paper, and shall then administer to him the oath of allegiance contained in the said paper:

Proceedings for enlistment.

(*b*) upon signing the declaration and taking the oath, such person shall be deemed to be enlisted as a soldier of Her Majesty's regular forces:

(*c*) the justice shall attest by his signature, in manner required by the said paper, the fulfilment of the requirements as to attesting a recruit, and shall deliver the attestation paper, duly dated, to the recruiter:

(*d*) the fee for the attestation of a recruit, and for all acts and things incidental thereto, shall be one shilling and no more, and shall be paid to the clerk of the justice:

(*e*) the officer who finally approves of a recruit for service shall, at his request, furnish him with a certified copy of his attestation paper.

"(5.) The date at which the recruit signs the declaration and takes the oath in this section in that behalf mentioned shall be deemed to be the date of the attestation of such recruit.

(6.) The competent military authority, if satisfied that there is any error in the attestation paper of a recruit, may cause the recruit to attend before some justice of the peace, and that justice, if satisfied that such error exists, and is not so material as to render it just that the recruit should be discharged, may amend the error in the attestation paper, and the paper as amended shall thereupon be deemed as valid as if the matter of the amendment had formed part of the original matter of such paper.

Power of recruit to purchase discharge.

81. IF a recruit within three months after the date of his attestation pays for the use of Her Majesty a sum not exceeding ten pounds, he shall be discharged with all convenient speed, unless he claims such discharge during a period when soldiers in army service who otherwise would be transferred to the reserve are required by a proclamation of Her Majesty in pursuance of this Act to continue in army service, in which case he may be retained in Her Majesty's service during that period, and at the termination thereof shall, if he so require it, on the payment then of the said sum, be discharged.

Appointment to Corps and Transfers.

Appointment to corps and transfers.

Enlistment for general service and appointment to corps.

82. (1.) RECRUITS may, in pursuance of any general or special regulations from time to time made by a Secretary of State, be enlisted for service in particular corps of the regular forces, but save as is provided by such regulations, if any, recruits shall be enlisted for general service.

(2.) The competent military authority shall as soon as practicable appoint a recruit, if enlisted for service in a particular corps, to that corps, and if enlisted for general service, to some corps of the regular forces.

Effect of

83. A SOLDIER of the regular forces, whether enlisted for general service

Appointment to corps and transfers.

appointment to a corps and provision for transfers.

or not, when once appointed to a corps, shall serve in that corps for the period of his army service, whether during the term of his original enlistment or during the period of such re-engagement as is in this Act mentioned, unless transferred under the following provisions:

(1.) A soldier of the regular forces enlisted for general service may within three months after the date of his attestation be transferred to any corps of the regular forces of the same arm or branch of the service by order of the competent military authority.

(2.) A soldier of the regular forces may at any time with his own consent be transferred by order of the competent military authority to any corps of the regular forces.

(3.) Where a soldier of the regular forces is in pursuance of any of the foregoing provisions transferred to a corps in an arm or branch different from that in which he was previously serving, the competent military authority may by order vary the conditions of his service so as to correspond with the general conditions of service in the arm or branch to which he is transferred.

(4.) A soldier of the regular forces in any branch of the service may be transferred by order of the competent military authority to any corps of the same branch which is serving in the United Kingdom in either of the following cases:

(*a*) when he has been invalided from service beyond the seas; or

(*b*) when, in the case of his corps or the part thereof in which he is serving being ordered on service beyond the seas, he is either unfit for such service by reason of his health, or is within two years from the end either of the period of his army service in the term of his original enlistment, or of such re-engagement as is in this Act mentioned.

(5.) Where a soldier of the regular forces in any branch of the service, who was enlisted to serve part of the term of his original enlistment in the reserve, and has not extended his army service for the whole of that time, is on service beyond the seas, and at the time of his corps or the part thereof in which he is serving being ordered to another station or to return home, has more than two years of his army service in the term of his original enlistment unexpired, he may be transferred by order of the competent military authority to any corps of the same branch which or a part of which is on service beyond the seas.

(6.) Where a soldier of the regular forces has been transferred to serve, either as a warrant officer not holding an honorary commission, or in the corps of armourer sergeants, or in the army hospital corps, or in the army service corps, or on the staff, or in the corps of mounted military police, or in any

corps not being a corps of infantry, cavalry, artillery, or engineers, he may by order of the competent military authority, either during the term of his original enlistment or during the period of his re-engagement, be removed from such service and transferred to any corps of the regular forces serving in the United Kingdom, or to any corps of the regular forces serving on the station beyond the seas on which he is serving at the time of his removal, or to the corps of the regular forces in which he was serving prior to such first-mentioned transfer either in the rank he holds at the time of his removal or any lower rank. *Appointment to corps and transfers.*

(7.) Where a soldier of the regular forces—

(*a*) has been guilty of the offence of desertion from Her Majesty's service or of fraudulent enlistment, and has either been convicted of the same by a court-martial, or, having confessed the offence, is liable to be tried, but his trial has been dispensed with by order of the competent military authority; or

(*b*) has been sentenced by a court-martial for any offence to a punishment not less than imprisonment for a term of six months,

such soldier shall be liable, in commutation wholly or partly of other punishment, to general service, and may from time to time be transferred to such corps of the regular forces as the competent military authority may from time to time order.

(8.) A soldier of the regular forces delivered into military custody or committed by a court of summary jurisdiction in any part of Her Majesty's dominions as a deserter shall be liable to be transferred by order of the competent military authority to any corps of the regular forces near to the place where he is delivered or committed, or to any other corps to which the competent military authority think it desirable to transfer him, and to serve in the corps to which he is so transferred without prejudice to his subsequent trial and punishment.

Re-engagement and Prolongation of Service.

Re-engagement and prolongation of service.

84. (1.) SUBJECT to any general or special regulations from time to time made by a Secretary of State, a soldier of the regular forces if in army service and within three years of the completion of his original term of enlistment may on the recommendation of his commanding officer, and with the approval of the competent military authority, be re-engaged for such further period of army service as will make up a total continuous period of twenty-one years of army service, reckoned from the date of his attestation, and inclusive of any period previously served in the reserve. Re-engagement of soldiers.

(2.) A soldier of the regular forces during his period of re-engagement

Re-engagement and prolongation of service.

shall be liable to forfeit his previous service during such period of re-engagement in like manner as he is liable under this part of this Act during the term of his original enlistment.

(3.) A soldier of the regular forces who so re-engages shall make before his commanding officer a declaration in accordance with the said regulations.

Continuance in service after twenty-one years service.

85. A SOLDIER of the regular forces who has completed, or will within one year complete, a total period of twenty-one years service, inclusive of any period served in the reserve, may give notice to his commanding officer of his desire to continue in Her Majesty's service in the regular forces; and if the competent military authority approve he may be continued as a soldier of the regular forces in the same manner in all respects as if his term of service were still unexpired, except that he may claim his discharge at the expiration of any period of three months after he has given notice to his commanding officer of his wish to be discharged.

Re engagement and continuance of service of non-commissioned officers.

86. THE regulations from time to time made in pursuance of this part of this Act may, if it seems expedient, provide that a non-commissioned officer of the regular forces who extends his army service for the residue unexpired of his original term of enlistment shall have the right at his option to re-engage, under section eighty-four, and to continue his service, under section eighty-five of this Act, or to do either of such things, subject, nevertheless, to the veto of the Secretary of State or other authority mentioned in the regulations, and to such other conditions as are specified in the regulations.

Prolongation of service in certain cases.

87. (1.) WHERE the time at which a soldier of the regular forces would otherwise be entitled to be discharged occurs while a state of war exists between Her Majesty and any foreign power, or while such soldier is on service beyond the seas, or while soldiers in the reserve are required by a proclamation, in pursuance of this Act, to continue in or re-enter upon army service, the soldier may be detained, and his service may be prolonged for such further period, not exceeding twelve months, as the competent military authority may order; but at the expiration of that period, or any earlier period at which the competent military authority considers his services can be dispensed with, the soldier shall, as provided by this Act, be discharged with all convenient speed.

(2.) Where the time at which a soldier of the regular forces would otherwise be entitled to be transferred to the reserve occurs while a state of war exists between Her Majesty and any foreign power, the soldier may be detained in army service for such further period, not exceeding twelve months, as the competent military authority may order, but at the expiration of that period, or any earlier period at which the competent military authority considers his services can be dispensed with, the soldier shall with all convenient speed be

sent to the United Kingdom for the purpose of being transferred to the reserve.

Re-engagement and prolongation of service.

(3.) If a soldier required under this section to be discharged or sent to the United Kingdom desires, while a state of war exists between Her Majesty and any foreign power, to continue in Her Majesty's service, and the competent military authority approve, he may agree to continue as a soldier of the regular forces in the same manner in all respects as if his term of service were still unexpired, except that he may claim his discharge at the end of such state of war, or, if it is so provided by such agreement, at the expiration of any period of three months after he has given notice to his commanding officer of his wish to be discharged.

(4.) A soldier who so agrees to continue shall make before his commanding officer a declaration in accordance with any general or special regulations from time to time made by a Secretary of State.

In imminent national danger, Her Majesty may continue soldiers in army service or call out for permanent service.

88. (1.) It shall be lawful for Her Majesty in Council in case of imminent national danger or of great emergency, by proclamation, the occasion being first communicated to Parliament, if Parliament be then sitting, or if Parliament be not then sitting, declared by the proclamation, to direct from time to time that all or any persons who would otherwise be entitled in pursuance of the terms of their enlistment to be transferred to the reserve shall continue in army service, and such persons shall accordingly continue to serve in army service, for the same period for which they might be required to serve, if they had been transferred to the reserve and called out for permanent service by a proclamation of Her Majesty under the enactments relating to the reserve.

(2.) Any man who has entered the reserve in pursuance of the terms of his enlistment may be called out for permanent service by a proclamation of Her Majesty under the enactments relating to the calling out of the reserve on permanent service.

Discharge and Transfer to Reserve Force.

Discharge and transfer to reserve force.

Transfer of soldier to reserve when corps ordered abroad.

89. In the following cases; that is to say,

(1) where a soldier of the regular forces has been invalided from service beyond the seas; or

(2) where a corps to which a soldier of the regular forces belongs, or the part thereof in which he is serving, is ordered on service beyond the seas, and the soldier is either unfit for such service by reason of his health, or is within two years of the end of the period of his army service in the term of his original enlistment,

the competent military authority may by order transfer him to the reserve in like manner as if the period of his actual service were specified in his attesta-

Discharge and transfer to reserve force.

tion paper as the portion of the term of his original enlistment which was to be spent in army service.

Discharge or transfer to reserve.

90. (1.) SAVE as otherwise provided by this Act or the Acts relating to the reserve forces, every soldier of the regular forces upon the completion of the term of his original enlistment, or of the period of his re-engagement, shall be discharged with all convenient speed, but until so discharged shall be subject to this Act as a soldier of the regular forces.

(2.) Where a soldier of the regular forces enlisted in the United Kingdom is, when entitled to be discharged, serving beyond the seas, he shall, if he so requires, be sent to the United Kingdom, and in such case shall, with all convenient speed, be sent there free of expense, and on his arrival be discharged. If such soldier is permitted, at his request, to stay at the place where he is serving, he shall not afterwards have any claim to be sent at the public expense to the United Kingdom or elsewhere.

(3.) Every soldier of the regular forces upon the completion of the period of his army service, if shorter than the term of his original enlistment, shall be transferred to the reserve, but until so transferred shall be subject to this Act as a soldier of the regular forces.

(4.) Where a soldier of the regular forces, when entitled to be transferred to the reserve, is serving beyond the seas, he shall be sent to the United Kingdom free of expense with all convenient speed, and on his arrival shall be transferred to the reserve.

(5.) A soldier of the regular forces who is discharged on the completion of the term of his original enlistment or his re-engagement or is transferred to the reserve shall be entitled to be conveyed free of cost from the place in the United Kingdom where he is discharged or transferred to the place in which he appears from his attestation paper to have been attested, or to any place at which he may at the time of his discharge or transfer decide to take up his residence, and to which he can be conveyed without greater cost.

Delivery of lunatic soldier on discharge with his wife or child at workhouse, or of dangerous lunatic at asylum.

91. (1.) A SECRETARY of State may, if he think proper, on account of a soldier's lunacy, cause any soldier of the regular forces on his discharge, and his wife and child, or any of them, to be sent to the parish or union to which under the statutes for the time being in force he appears, from the statements made in his attestation paper and other available information, to be chargeable; and such soldier, wife, or child, if delivered after reasonable notice, in England or Ireland at the workhouse in which persons settled in such parish or union are received, and in Scotland to the inspector of poor of such parish, shall be received by the master or other proper officer of such workhouse or such inspector of poor, as the case may be:

(2.) Provided that a Secretary of State, where it appears to him that any

Discharge and transfer to reserve force.

such soldier is a dangerous lunatic, and is in such a state of health as not to be liable to suffer bodily or mental injury by his removal, may, by order signified under his hand or under the hand of an under-secretary, send such lunatic direct to an asylum, registered hospital, licensed house, or other place in which pauper lunatics can legally be confined, and for the purpose of the said order the above-mentioned parish or union shall be deemed to be the parish or union from which such lunatic is sent.

(3.) In England the lunatic shall be sent to the asylum, hospital, house, or place to which a person in the workhouse aforesaid, on becoming a dangerous lunatic, can by law be removed, and an order of the Secretary of State under this section shall be of the same effect as an order by a justice within the meaning of section seventy-two of the Act of the session of the sixteenth and seventeenth years of the reign of Her present Majesty, chapter ninety-seven, intituled "An Act to consolidate and amend the laws for the provision "and regulation of lunatic asylums for counties and boroughs, and for the main- "tenance and care of pauper lunatics in England," and shall be subject accordingly to the provisions of that section.

(4.) The Secretary of State, before making the said order in respect of a lunatic who is liable to be delivered to the inspector of poor of a parish in Scotland, may require the inspector of poor of that parish to specify the asylum to which such lunatic if in the parish would be sent, and it shall be the duty of such inspector forthwith to specify such asylum, and thereupon the Secretary of State may make the said order for sending the lunatic to that asylum, and such order shall be of the same effect as an order by the sheriff within the meaning of section eighty-five of the Act of the session of the twentieth and twenty-first years of the reign of Her present Majesty, chapter seventy-one, intituled "An Act for the regulation of, and care and treatment of luna- "tics, and for the provision, maintenance, and regulation of lunatic asylums in "Scotland," and shall be subject accordingly to the provisions of that section.

(5). In the case of any such lunatic, who is liable to be delivered at a workhouse in Ireland, at which persons settled in the said union are received, a Secretary of State may, by order under his hand, send such soldier to the asylum of the district in which such union is situate, and such order shall be of the same effect as a warrant under the hands and seals of two justices given under the provisions of the tenth section of the Act of the session of the thirtieth and thirty-first years of the reign of Her present Majesty, chapter one hundred and eighteen, intituled "An Act to provide for the appointment "of the officers and servants of district lunatic asylums in Ireland, and to alter "and amend the law relating to the custody of dangerous lunatics and dan- "gerous idiots in Ireland."

Discharge and transfer to reserve force.

Regulations as to discharge of soldiers.

92. (1.) A SOLDIER of the regular forces shall not be discharged from those forces, unless by sentence of court-martial with ignominy, or by order of the competent military authority, or by authority direct from Her Majesty and until duly discharged in manner provided by this Act and by regulations of the Secretary of State under this Act shall be subject to this Act.

(2.) To every soldier of the regular forces who is discharged, for whatever reason he is discharged, there shall be given a certificate of discharge, stating his service, conduct, and character, and the cause of his discharge.

Authorities to enlist and attest recruits.

Regulations as to persons to enlist and enlistment of soldiers.

Authorities to enlist and attest Recruits.

93. A SECRETARY of State may from time to time make and when made revoke and alter a general or special order making such regulations, giving such directions, and issuing such forms as he may think necessary or expedient respecting the persons authorised to enlist recruits for Her Majesty's regular forces, and for the purpose of such enlistment, and generally for carrying this part of this Act into effect; and any such order shall be of the same effect as if enacted in this Act.

Justices of the peace for the purposes of enlistment.

94. (1.) FOR the purposes of the attestation of soldiers in pursuance of this part of this Act—

every person exercising the office of a magistrate in India or a colony, and also each of the following persons, shall have the authority of a justice of the peace, and be deemed to be included in the expression "justice of the peace," wherever used in this part of this Act in relation to the attestation of soldiers; that is to say,

in India, any person duly authorised in that behalf by the Governor General; and in the territories of any native state in India, the person performing the duties of the office of British resident or political agent therein, or any other person authorised in that behalf by the Governor General of India; and

in a colony, any person duly authorised in that behalf by the governor of the colony; and

beyond the limits of the United Kingdom, India, and a colony, any British consul general, consul, or vice-consul, or person duly exercising the authority of a British consul.

(2.) An officer while subject to military law shall not act as a justice of the peace for the purpose of the attestation of soldiers, in pursuance of this part of this Act, except militia officers while not embodied.

Special provisions as to persons to be enlisted.

Enlistment of

Special Provisions as to Persons to be enlisted.

95. (1.) ANY person who is for the time being an alien may, if Her

Majesty think fit to signify her consent through a Secretary of State, be enlisted in Her Majesty's regular forces, so however that the number of aliens serving together at any one time in any corps of the regular forces shall not exceed the proportion of one alien to every fifty British subjects, and that an alien so enlisted shall not be capable of holding any higher rank in Her Majesty's regular forces than that of a warrant officer or non-commissioned officer:

Special provisions as to persons to be enlisted.

aliens, negroes, &c.

(2.) Provided that notwithstanding the above provisions of this section any negro or person of colour, although an alien, may voluntarily enlist in pursuance of this part of this Act, and when so enlisted shall while serving in Her Majesty's regular forces be deemed to be entitled to all the privileges of a natural-born British subject.

Claims of masters to apprentices.

96. THE master of an apprentice in the United Kingdom who has been attested as a soldier of the regular forces may claim him while under the age of twenty-one years as follows, and not otherwise:

(1) the master, within one month after the apprentice left his service, must take before a justice of the peace the oath in that behalf specified in the first schedule to this Act, and obtain from the justice a certificate of having taken such oath, which certificate the justice shall give in the form in the said schedule, or to the like effect:

(2) a court of summary jurisdiction within whose jurisdiction the apprentice may be, if satisfied on complaint by the master that he is entitled to have the apprentice delivered up to him, may order the officer under whose command the apprentice is to deliver him to the master, but if satisfied that the apprentice stated on his attestation that he was not an apprentice may, and if required by or on behalf of the said commanding officer shall, try the apprentice for the offence of making such false statement, and if need be may adjourn the case for the purpose:

(3) except in pursuance of an order of a court of summary jurisdiction, an apprentice shall not be taken from Her Majesty's service:

(4) an apprentice shall not be claimed in pursuance of this section unless he was bound for at least four years by a regular indenture, and was under the age of sixteen years when so bound:

(5) a master who gives up the indenture of his apprentice within one month after the attestation of such apprentice shall be entitled to receive to his own use so much of the bounty (if any) payable to such apprentice on enlistment as has not been paid to the apprentice before notice was given of his being an apprentice.

Application of

97. THE provisions of this part of this Act with respect to apprentices

Special provisions as to persons to be enlisted.

apprentice provisions to indentured labourers.

shall apply to a person who at the time of his attestation is an indentured labourer in a colony, with these qualifications, that such indentured labourer, if imported at the expense of the employer or of the colony in consideration of the indenture under which he is serving, may be claimed although above the age of twenty-one years, and though bound for a less period or at an older age than is above specified.

Offences as to enlistment.

Penalty on unlawful recruiting.

Offences as to Enlistment.

98. If a person without due authority—

(1) publishes or causes to be published notices or advertisements for the purpose of procuring recruits for Her Majesty's regular forces, or in relation to recruits for such forces; or

(2) opens or keeps any house, place of rendezvous, or office as connected with the recruiting of such forces; or

(3) receives any person under any such advertisement as aforesaid; or

(4) directly or indirectly interferes with the recruiting service of such forces,

he shall be liable on summary conviction to a fine not exceeding twenty pounds.

Recruits punishable for false answers.

99. (1.) If a person knowingly makes a false answer to any question contained in the attestation paper, which has been put to him by or by direction of the justice before whom he appears for the purpose of being attested, he shall be liable on summary conviction to be imprisoned with or without hard labour for any period not exceeding three months.

(2.) If a person guilty of an offence under this section has been attested as a soldier of the regular forces, he shall be liable, at the discretion of the competent military authority, to be proceeded against before a court of summary jurisdiction, or to be tried by court-martial for the offence.

Miscellaneous as to enlistment.

Validity of attestation and enlistment or re-engagement.

Miscellaneous as to Enlistment.

100. (1.) Where a person after his attestation on his enlistment, or the making of his declaration on re-engagement, has received pay as a soldier of the regular forces during three months, he shall be deemed to have been duly attested and enlisted or duly re-engaged, as the case may be, and shall not be entitled to claim his discharge on the ground of any error or illegality in his enlistment, attestation, or re-engagement, or on any other ground whatsoever, save as authorised by this Act, and, if within the said three months such person claims his discharge, any such error or illegality or other ground shall not until such person is discharged in pursuance of his claim affect his position as a soldier in Her Majesty's service, or invalidate any proceedings, act, or thing taken or done prior to such discharge.

Miscellaneous as to enlistment.

(2.) Where a person is in pay as a soldier in any corps of Her Majesty's regular forces, such person shall be deemed for all the purposes of this Act to be a soldier of the regular forces, with this qualification, that he may at any time claim his discharge, but until he so claims and is discharged in pursuance of that claim he shall be subject to this Act as a soldier of the regular forces legally enlisted and duly attested under this Act.

(3.) Where a person claims his discharge on the ground that he has not been attested or re-engaged, or not duly attested or re-engaged, his commanding officer shall forthwith forward such claim to the competent military authority, who shall as soon as practicable submit it to a Secretary of State, and if the claim appears well grounded the claimant shall be discharged with all convenient speed.

Definition for purposes of Part Two of competent military authority and reserve.

101. (1.) ANY act or thing authorised or required by this part of this Act to be done by, to, or before the competent military authority may be done by, to, or before the commander-in-chief or the adjutant general, or any officer prescribed in that behalf.

(2.) For the purposes of this part of this Act the expression "reserve" means the first class of the army reserve force.

PART III—[*Omitted as not applying to India.*]

PART IV.

GENERAL PROVISIONS.

Supplemental Provisions as to Courts-martial.

Supplemental provisions as to courts-martial.

Royal warrant required for convening and confirming general courts-martial.

122. (1.) HER Majesty may, subject to the provisions of this Act, by any warrant or warrants under Her Sign Manual, in such form as Her Majesty may from time to time direct, from time to time—

(*a*) convene or authorise any qualified officer to convene a general court-martial for the trial under this Act of any person subject to military law; and

(*b*) give a general authority to any qualified officer to convene general courts-martial for the trial, under this Act, of such persons subject to military law as may for the time being be under or within the territorial limits of his command; and

(*c*) empower any qualified officer to delegate, to any officer under his com-

Supplemental provisions as to courts-martial.

mand not below the degree of field officer, a general authority to convene general courts-martial for the trial, under this Act, of such persons subject to military law, as are for the time being under or within the territorial limits of his command; and

(*d*) reserve for confirmation by Her Majesty, or empower any qualified officer to confirm, the findings and sentences of general courts-martial; and

(*e*) empower any officer for the time being authorised to confirm the findings and sentences of general courts-martial to reserve for confirmation findings or sentences of general courts-martial, or to delegate a power of confirming such findings or sentences to any officer under his command not below the degree of field officer; and

(*f*) revoke any warrant for the time being in force, or any part of any warrant, leaving the remainder in full force:

Provided that where it appears to Her Majesty that in any place out of the United Kingdom, where no field officer is for the time being in command, hardship would be inflicted on persons accused of offences by reason of there being no means of speedily trying such persons for offences, a warrant under this section may empower an officer to delegate to an officer not below the degree of captain any authority and power authorised under this section to be delegated to a field officer.

(2.) The same officer may or may not be appointed convening and confirming officer.

(3.) The power of convening general courts-martial, and of confirming the findings and sentences of general courts-martial, or either of such powers, may be granted subject to such restrictions, reservations, exceptions, and conditions as to Her Majesty may seem meet, and when delegated by any officer empowered in that behalf may, subject to the provisions of any warrant granting him such power, be delegated subject to such restrictions, reservations, exceptions, and conditions as to such officer may seem fit.

(4.) Warrants under this section may be addressed to officers by name or by designation of their offices, or partly in one way and partly in the other, and any warrant may or may not, according to the terms of such warrant and the mode in which the same is addressed, be limited to an officer named, or be extended to a person for the time being performing the duties of the office named, or be extended to the successors in command of an officer.

(5.) Any warrant of Her Majesty issued in pursuance of this section shall be of the same force as if the provisions thereof were enacted by this Act.

(6.) "Qualified officer" for the purposes of this Act, in so far as it relates to convening or confirming the findings and sentences of general courts-martial,

means the Commander-in-Chief and any officer not below the rank of a field officer commanding for the time being any body of the regular forces either within or without Her Majesty's dominions; it also includes the Lord Lieutenant of Ireland, the Governor General of India, and a Governor of any colony on whom the command of any body of regular forces may be conferred by Her Majesty.

Supplemental provisions as to courts-martial.

123. (1.) ANY officer or person authorised to convene general courts-martial may—

Authority of officer empowered to convene general courts-martial required for convening and confirming district courts-martial.

(*a*) convene a district court-martial for the trial under this Act of any person under his command who is subject to military law; and

(*b*) empower any person under his command not below the rank of captain to convene a district court-martial for the trial under this Act of any person under the command of such last-mentioned officer who is subject to military law; and

(*c*) confirm the finding and sentence of any district court-martial, or empower any officer whom he has power to authorise to convene district courts-martial to confirm the finding and sentence of any district court-martial.

(2.) The same officer may or may not be appointed convening and confirming officer under this section.

(3.) The power of convening, and of confirming the findings and sentences of, district courts-martial, or either of such powers, may be granted under this section, subject to such restrictions, reservations, exceptions, and conditions as to the officer granting such power may seem meet.

(4.) Any authority under this section for convening district courts-martial may be addressed to an officer by name or by designation of his office, or partly in one way and partly in the other, and may or may not, according to the terms thereof and the mode in which the same is addressed, be limited to an officer named, or be extended to a person holding for the time being or performing the duties of the office, or be extended to the successors in command of such officer.

Right of person tried to copy of proceedings of court-martial.

124. ANY person tried by a court-martial shall be entitled, on demand, at any time in the case of a general court-martial within seven years, and in the case of any other court-martial within three years after the confirmation of the finding and sentence of the court, to obtain from the officer or person having the custody of proceedings of such court a copy thereof, including the proceedings with respect to the revision and confirmation thereof, upon payment for the same at the prescribed rate, not exceeding two pence for every folio of seventy-two words, and for the purposes of this section the proceedings of courts-martial shall be preserved in the prescribed manner.

Supplemental provisions as to courts-martial.

Summoning and privilege of witnesses at courts-martial.

125. (1.) EVERY person required to give evidence before a court-martial may be summoned or ordered to attend in the prescribed manner.

(2.) Every person attending in pursuance of such summons or order as a witness before any court-martial shall, during his necessary attendance in or on such court, and in going to and returning from the same, have the same privilege from arrest as he would have if he were a witness before a superior court of civil jurisdiction.

Misconduct of civilian at court-martial.

126. (1.) WHERE any person who is not subject to military law commits any of the following offences; that is to say,

(*a*) on being duly summoned as a witness before a court-martial, and after payment or tender of the reasonable expenses of his attendance, makes default in attending; or

(*b*) being in attendance as a witness—

(i) refuses to take an oath legally required by a court-martial to be taken; or

(ii) refuses to produce any document in his power or control legally required by a court-martial to be produced by him; or

(iii) refuses to answer any question to which a court-martial may legally require an answer,

the president of the court-martial may certify the offence of such person under his hand to any court of law in the part of Her Majesty's dominions where the offence is committed which has power to punish witnesses if guilty of like offences in that court, and that court may thereupon inquire into such alleged offence, and after examination of any witnesses that may be produced against or for the person so accused, and after hearing any statement that may be offered in defence, if it seem just, punish such witness in like manner as if he had committed such offence in a proceeding in that court.

(2.) Where a person not subject to military law when examined on oath or solemn declaration before a court-martial wilfully gives false evidence, he shall be liable on indictment or information to be convicted of and punished for the offence of perjury, or the offence by whatever name called in the part of Her Majesty's dominions in which the offence is tried which, if committed in England, would be perjury.

(3.) Where a person not subject to military law is guilty of any contempt towards a court-martial, by using insulting or threatening language, or by causing any interruption or disturbance in its proceedings, or by printing observations or using words calculated to influence the members of or witnesses before such court, or to bring such court into disrepute, the president of the court-martial may certify the offence of such person, under his hand, to any court of law in the part of Her Majesty's dominions where the offence is com-

Supplemental provisions as to courts-martial.

mitted which has power to commit for contempt, and that court may thereupon inquire into such alleged offence, and after hearing any witnesses that may be produced against or on behalf of the person so accused, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of such person in like manner as if he had been guilty of contempt of that court.

Court-martial governed by English law only.

127. A COURT-MARTIAL under this Act shall not, as respects the conduct of its proceedings, or the reception or rejection of evidence, or as respects any other matter or thing whatsoever, be subject to the provisions of the Indian Evidence Act, 1872, or to any Act, law, or ordinance of any legislature whatsoever other than the Parliament of the United Kingdom.

Rules of evidence to be the same as in civil courts.

128. THE rules of evidence to be adopted in proceedings before courts-martial shall be the same as those which are followed in civil courts in England, and no person shall be required to answer any question or to produce any document which he could not be required to answer or produce in similar proceedings before a civil court.

Position of counsel at courts-martial.

129. WHEREAS it is expedient to make provision respecting the conduct of counsel when appearing on behalf of the prosecution or defence at general courts-martial in pursuance of rules under this Act, be it therefore enacted as follows:

(1.) Any conduct of a counsel which would be liable to censure, or a contempt of court, if it took place before Her Majesty's High Court of Justice in England, shall likewise be deemed liable to censure, or a contempt of court, in the case of a court-martial; and the rules laid down for the practice of courts-martial and the guidance of counsel shall be binding on counsel appearing before such courts-martial, and any wilful disobedience of such rules shall be professional misconduct, and, if persevered in, be deemed a contempt of court.

(2.) Where a counsel is guilty of conduct liable to censure, or a contempt of court, such offence shall be deemed to be an offence within the meaning of section one hundred and twenty-six of this Act, and the president of the court-martial may certify the same to a court of law accordingly; and the court of law to which the same is certified shall deal with such offence in the same manner as if it had been committed in a proceeding before that court.

(3.) A court-martial may, by order under the hand of the president, cause a counsel to be removed from the court who is guilty of such an offence as may, in the opinion of the court-martial, require his removal from court, but in every such case the president shall certify the offence committed to a court of law in manner provided by the above-mentioned section.

Provision

130. (1.) WHERE it appears on the trial by court-martial of a person

Supplemental provisions as to courts-martial.

case of insane persons.

charged with an offence that such person is by reason of insanity unfit to take his trial, the court shall find specially that fact; and such person shall be kept in custody in the prescribed manner until the directions of Her Majesty thereon are known, or until any earlier time at which such person is fit to take his trial.

(2.) Where on the trial by court-martial of a person charged with an offence it appears that such person committed the offence, but that he was insane at the time of the commission thereof, the court shall find specially the fact of his insanity, and such person shall be kept in custody in the prescribed manner until the directions of Her Majesty thereon are known.

(3.) In either of the above cases Her Majesty may give orders for the safe custody of such person during her pleasure, in such place and in such manner as Her Majesty thinks fit.

(4.) A finding under this section shall be subject to confirmation in like manner as any other finding.

(5.) If a person imprisoned by virtue of this Act becomes insane, then, without prejudice to any other provision for dealing with such insane prisoner, a Secretary of State in any case, and in the case of a prisoner confined in India the Governor General of India, or the Governor of any presidency in which the person is confined, and in the case of a prisoner confined in a colony the Governor of that colony, may, upon a certificate of such insanity by two qualified medical practitioners, order the removal of such prisoner to an asylum or other proper place for the reception of insane persons in the United Kingdom, India, or the colony, according as the prisoner is confined in the United Kingdom, India, or the colony, there to remain for the unexpired term of his imprisonment, and, upon such person being certified in the like manner to be again of sound mind, may order his removal to any prison in which he might have been confined if he had not become insane, there to undergo the remainder of such punishment.

General provisions as to prisons.

General Provisions as to Prisons.

Arrangements with Indian and colonial governments as to prisons.

131. (1.) A SECRETARY of State may from time to time make arrangements with the Governor General of India or the Governor of a colony for the reception in any prison in India or in such colony of prisoners under this Act, and of deserters or absentees without leave from Her Majesty's service, on payment of such sums as are provided by the arrangement, and the governor of any prison to which any such arrangement relates shall be under the same obligation as the governor of a prison in the United Kingdom to receive and detain such prisoners, deserters, and absentees without leave:

(2.) Provided that where a prisoner has been sentenced in India or in

General provisions as to prisons.

a colony to a term of imprisonment exceeding twelve months or to a term of penal servitude, he shall be transferred as soon as practicable to a prison or convict establishment within the United Kingdom, unless in the case of imprisonment the court shall for special reasons otherwise order, there to undergo his sentence; or unless he belongs to a class with respect to which a Secretary of State has declared that, by reason of the climate or place of his birth or the place of his enlistment, or otherwise, it is not beneficial to the prisoner to transfer him to the United Kingdom; every such declaration shall be laid before both Houses of Parliament.

(3.) Any order which can be made under this section by the court may be made by the confirming authority in confirming the finding and sentence, and in the case of any commutation or remission of sentence, may be made by the authority commuting or remitting the sentence.

Duty of governor of prison to receive prisoners, deserters, and absentees without leave.

132. (1.) THE governor of every prison in the United Kingdom, and the governor of every prison in India or a colony who is under the same obligation as the governor of a prison in the United Kingdom, shall receive and confine, until discharged or delivered over in due course of law, all prisoners sent to such prison in pursuance of this Act, and every person delivered into his custody as a deserter or absentee without leave by any person conveying him under legal authority, on production of the warrant of a court of summary jurisdiction on which such deserter or absentee without leave has been taken or committed, or of some order from a Secretary of State, or from the Governor General of India, or the governor of a colony, which order shall continue in force until the deserter or absentee without leave has arrived at his destination.

(2.) Every such governor shall also receive into his custody for a period not exceeding seven days, any soldier in military custody upon delivery to him of a written order purporting to be signed by the commanding officer of such soldier.

(3.) The provisions of this section with respect to the governor of a prison in the United Kingdom shall apply to a person having charge of any police station or other place in which prisoners may legally be confined.

Military Prisons.

Military Prisons.

Establishment and regulation of military prisons.

133. (1.) IT shall be lawful for a Secretary of State, and in India for the Governor General, to set apart any building or part of a building under the control of the Secretary of State or Governor General as a military prison, or as a public prison for the imprisonment of military prisoners, and to declare that any such building or part of a building shall be a military prison, or a public prison, as the case may be, and every military prison so declared shall

Military prisons.

be deemed to be a public prison within the meaning of the provisions of this Act relating to imprisonment, and if such prison is in India shall be deemed to be an authorised prison.

(2.) It shall be lawful for a Secretary of State, and in India for the Governor General, from time to time to make, alter, and repeal rules for the government, management and regulation of military prisons, and for the appointment and removal and powers of inspectors, visitors, governors, and officers thereof, and for the labour of military prisoners therein, and for the safe custody of such prisoners, and for the maintenance of discipline among them, and for the punishment by personal correction, not exceeding twenty-five lashes in the case of corporal punishment, restraint, or otherwise of offences committed by such prisoners, so, however, that such rules shall not authorise corporal punishment to be inflicted for any offence in addition to the offences for which such punishment can be inflicted in pursuance of the Prison Act, 1865, and the Prison Act, 1877, nor render the imprisonment more severe than it is under the law in force for the time being in any public prison in England, subject to the Prison Act, 1877, and provided that all the regulations in the Prison Act, 1865, and in the Prison Act, 1877, as to the duties of gaolers, medical officers, and coroners shall be contained in such rules, so far as the same can be made applicable.

28 & 29 Vict. c. 126. 40 & 41 Vict. c. 21.

(3.) On all occasions of death by violence or attended with suspicious circumstances in any military prison in India an inquest is to be held, to make inquiry into the cause of death. The commanding officer shall cause notice to be given to the nearest magistrate, duly authorised to hold inquests, and such magistrate shall hold an inquest into the cause of any such death, in the manner and with the powers provided in the case of similar inquiries held under the law for the time being in force in India for regulating criminal procedure.

(4.) Where from any cause there is no competent civil authority available, the commanding officer shall convene a court of inquest. Such court shall be convened and shall hold the inquest in such manner as may be prescribed.

28 & 29 Vict. c. 126.

(5.) Such rules may apply to such prisons any enactments of the Prison Act, 1865, imposing punishments on any persons not prisoners.

(6.) All rules made by a Secretary of State in pursuance of this section shall be laid before Parliament as soon as practicable after they are made, if Parliament be then sitting, and if not, as soon as practicable after the commencement of the then next session of Parliament.

Restrictions on confinement in prisons in India or

134. (1.) No soldiers shall be confined, longer than is absolutely necessary, in prisons other than military prisons in India and the colonies where the rules for the government and management of such prisons differ from those made

by the Governor General of India and a Secretary of State in the case of India and the colonies respectively. colonies, not being military prisons.

135. WHEREAS it is expedient that a clear difference should be made between the treatment of prisoners convicted of breaches of discipline and the treatment of prisoners convicted of offences of an immoral, dishonest, shameful, or criminal character, a Secretary of State shall from time to time make rules for the classification and treatment of such prisoners. Classification of prisoners.

Pay.

Pay.

136. THE pay of an officer or soldier of Her Majesty's regular forces shall be paid without any deduction other than the deductions authorised by this or any other Act or by any royal warrant for the time being. Authorised deductions only to be made from pay.

137. THE following penal deductions may be made from the ordinary pay due to an officer of the regular forces: Penal stoppages from ordinary pay of officers.

(1) all ordinary pay due to an officer who absents himself without leave or overstays the period for which leave of absence has been granted him, unless a satisfactory explanation has been given through the commanding officer of such officer, and has been notified as satisfactory by the Commander-in-Chief to a Secretary of State:

(2) the sum required to make good such compensation for any expenses, loss, damage, or destruction occasioned by the commission of any offence as may be awarded by the court-martial by whom he is convicted of such offence:

(3) the sum required to make good the pay of any officer or soldier which he has unlawfully retained or unlawfully refused to pay.

138. THE following penal deductions may be made from the ordinary pay due to a soldier of the regular forces: Penal stoppages from ordinary pay of soldiers.

(1) all ordinary pay for every day of absence either on desertion or without leave, or as prisoner of war, and for every day of imprisonment either under sentence for an offence awarded by a civil court or court-martial, or by his commanding officer, or if he is on board one of Her Majesty's ships by the commanding officer of that ship, or under detention on the charge for an offence of which he is afterwards convicted by a civil court or court-martial, or under detention on the charge for absence without leave for which he is afterwards awarded imprisonment by his commanding officer;

(5) all ordinary pay for every day on which he is in hospital on account of sickness certified by the proper medical officer attending on him at the hospital to have been caused by an offence under this Act committed by him;

Pay.

(3) the sum required to make good such compensation for any expenses, loss, damage, or destruction occasioned by the commission of any offence as may be awarded by the court-martial by whom he is convicted of such offence, or if he is on board of one of Her Majesty's ships by the commanding officer of that ship, or where he has confessed the offence and his trial is dispensed with by order under section seventy-one of this Act, as may be awarded by that order or by any other order of a competent military authority under that section ;

(4) the sum required to make good such compensation for any expenses caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, or regimental necessaries or military decoration, or to any buildings or property, as may be awarded by his commanding officer, or, in case he requires to be tried by a court-martial, by that court-martial, or if he is on board one of Her Majesty's ships, by the commanding officer of that ship ;

(5) where a soldier at the time of his enlistme nt belonged to any part of the auxiliary forces, the sum required to make good any compensation for which at the time of his enlistment he was under stoppage of pay as a member of the auxiliary forces, and any sum which he is liable to pay by reason of his quitting the said part of the auxiliary forces upon his enlistment ;

(6) where a soldier's liquor ration is stopped by his commanding officer on board any ship, whether commissioned by Her Majesty or not, the sum equivalent to such ration, whether previously drawn by the soldier or not, not exceeding one penny a day for twenty-eight days ;

(7) the sum required to pay a fine awarded by a court-martial, his commanding officer, or a civil court ; and

(8) the sum required to pay any sum ordered by a Secretary of State to be paid as mentioned in this Act for the maintenance of his wife or child, or of any bastard child, or towards the cost of any relief given by way of loan to his wife or child :

Provided that—

(*a*) the total amount of deductions from the ordinary pay due to a soldier in respect of the sums required to pay any compensation, fine, or sum awarded or ordered to be paid as aforesaid by a court-martial, commanding officer, or Secretary of State shall not exceed such sum as will leave to the soldier, after paying for his messing and washing, less than one penny a day ; and

Pay.

(*b*) a person shall not be subjected in respect of any compensation, fine, or sum awarded or ordered to be paid as aforesaid to any deductions greater than is sufficient to make good the expenses, loss, damage, or destruction for which such compensation is awarded, or to pay the said sum.

How deduction of pay may be remitted.

139. ANY deduction of pay authorised by this Act may be remitted in such manner and by such authority as may be from time to time provided by Royal Warrant, and subject to the provisions of any such warrant may be remitted by the Secretary of State.

Supplemental as to deductions from ordinary pay.

140. (1.) ANY sum authorised by this Act to be deducted from the ordinary pay of an officer or soldier may, without prejudice to any other mode of recovering the same, be deducted from the ordinary pay or from any sums due to such officer or soldier, in such manner, and when deducted or recovered may be appropriated in such manner, as may be from time to time directed by any regulation or order of the Secretary of State.

(2.) And any such regulation or order may from time to time declare what shall be deemed for the purposes of the provisions of this Act relating to deductions from pay to constitute a day of absence or a day of imprisonment, so, however, that no time shall be so reckoned as a day unless the absence or imprisonment has lasted for six hours or upwards, whether wholly in one day or partly in one day and partly in another, or unless such absence prevented the absentee from fulfilling any military duty which was thereby thrown upon some other person.

(3.) In cases of doubt as to the proper issue of pay or the proper deduction from pay due to any officer or soldier, the pay may be withheld until Her Majesty's order respecting it has been signified through a Secretary of State, which order shall be final.

Prohibition of assignment of military pay, pensions, &c.

141. EVERY assignment of, and every charge on, and every agreement to assign or charge any deferred pay, or military reward payable to any officer or soldier of any of Her Majesty's forces, or any pension, allowance, or relief payable to any such officer or soldier, or his widow, child, or other relative, or to any person in respect of any military service, shall, except so far as the same is made in pursuance of a Royal Warrant for the benefit of the family of the person entitled thereto, or as may be authorised by any Act for the time being in force, be void.

Punishment of false oath and personation.

142. (1.) WHERE any regulations made by the Secretary of State or the Commissioners of Her Majesty's Treasury, with respect to the payment of any military reward, pension, or allowance, or any sum payable in respect of military service, or with respect to the payment of money or delivery of property in the possession of the military authorities, provide for proving, whether on oath or by statutory declaration, the identity of the recipient or any other matter in

Pay.

connexion with such payment, such oath may be administered and declaration taken by the persons specified in the regulations, and any person who in such oath or declaration wilfully makes any false statement shall be liable to the punishment of perjury.

(2.) Any person who falsely represents himself to any military, naval, or civil authority to belong to or to be a particular man in the regular reserve or auxiliary forces shall be deemed to be guilty of personation.

37 & 38 Vict. c. 36.

(3.) Any person who is guilty of an offence under the False Personation Act, 1874, in relation to any military pay, reward, pension, or allowance, or to any sum payable in respect of military service, or to any money or property in the possession of the military authorities, or is guilty of personation under this section, shall be liable, on summary conviction, to imprisonment, with or without hard labour, for a term not exceeding three months, or to a fine not exceeding twenty-five pounds.

(4.) Provided that nothing in this section shall prevent any person from being proceeded against and punished under any other enactment or at common law in respect of any offence, so that he be not punished twice for the same offence.

Exemptions of officers and soldiers.

Exemptions of Officers and Soldiers.

143. (1.) ALL officers and soldiers of Her Majesty's regular forces on duty or on the march; and

Exemptions of officers and soldiers from tolls.

their horses and baggage; and

all prisoners under military escort; and

all carriages and horses belonging to Her Majesty or employed in her military service, when conveying any such persons as above in this section mentioned, or baggage or stores, or returning from conveying the same

shall be exempted from payment of any duties or tolls on embarking or disembarking from or upon any pier, wharf, quay, or landing place, or in passing along or over any turnpike or other road or bridge, otherwise demandable by virtue of any Act of Parliament already passed or hereafter to be passed, or by virtue of any Act, ordinance, order, or direction of the legislature or other authority in India or any colony:

Provided that nothing in this section shall exempt any boats, barges, or other vessels employed in conveying the said persons, horses, baggage, or stores along any canal from payment of tolls in like manner as other boats, barges, and vessels.

(2.) When any soldiers have occasion in their march by route to pass regular ferries in Scotland, the officer commanding may, at his option, pass over

with his soldiers as passengers, and shall pay for himself and each soldier one half only of the ordinary rate payable by single persons, or may hire the ferry boat for himself and his party, debarring others for that time, and shall in all such cases pay only half the ordinary rate for such boat. *Exemptions of officers and soldiers*

(3.) Any person who demands and receives any duty, toll, or rate in contravention of this section shall, on summary conviction, be liable to a fine not exceeding five pounds nor less than ten shillings.

144. (1.) A SOLDIER of Her Majesty's regular forces shall not be liable to be taken out of Her Majesty's service by any process, execution, or order of any court of law or otherwise, or to be compelled to appear in person before any court of law, except in respect of the following matters, or one of them; that is to say, Exemption of soldiers in respect of civil process.

(*a*) on account of a charge of or conviction for crime; or

(*b*) on account of any debt, damages, or sum of money, when the amount exceeds thirty pounds over and above all costs of suit.

(2.) For the purposes of this section a crime shall mean a felony, misdemeanor, or other crime or offence punishable, according to the law in force in that part of Her Majesty's dominions in which such soldier is, with fine or imprisonment or some greater punishment, and shall not include the offence of a person absenting himself from his service, or neglecting to fulfil his contract, or otherwise misconducting himself respecting his conduct.

(3.) For the purposes of this section a court of law shall be deemed to include a court of summary jurisdiction and any magistrate.

(4.) The amount of the debt, damages, or sum shall be proved for the purpose of any process issued before the court has adjudicated on the case by an affidavit of the person seeking to recover the same or of some one on his behalf, and such affidavit shall be sworn, without payment of any fee, in the manner in which affidavits are sworn in the court in which proceedings are taken for the recovery of the sum, and a memorandum of such affidavit shall, without fee, be indorsed upon any process or order issued against a soldier.

(5.) All proceedings and documents in or incidental to a process, execution, or order in contravention of this section shall be void; and where complaint is made by a soldier or his commanding officer that such soldier is dealt with in contravention of this section by any process, execution, or order issued out of any court, and is made to that court or to any court superior to it, the court or some judge thereof shall examine into the complaint, and shall, if necessary, discharge such soldier without fee, and and may award reasonable costs to the complainant, which may be recovered as if costs had been awarded in his favour in any action or other proceeding in such court.

Provided that—

(1) any person having cause of action or suit against a soldier of the

Exemptions of officers and soldiers.

regular forces may, notwithstanding anything in this section, after due notice in writing given to the soldier, or left at his last quarters, proceed in such action or suit to judgment, and have execution other than against the person, pay, arms, ammunition, equipments, regimental necessaries, or clothing of such soldier; and

(2) this section shall not prevent such proceeding with respect to apprentices and indentured labourers as is authorised by this Act.

Liability of soldier to maintain wife and children.

145. (1.) A SOLDIER of the regular forces shall be liable to contribute to the maintenance of his wife and of his children, and also to the maintenance of any bastard child of which he may be proved to be the father, to the same extent as if he were not a soldier; but execution in respect of any such liability or of any order or decree in respect of such maintenance shall not issue against his person, pay, arms, ammunition, equipments, instruments, regimental necessaries, or clothing; nor shall he be liable to be punished for the offence of deserting or neglecting to maintain his wife or family, or any member thereof, or of leaving her or them chargeable to any union, parish, or place.

(2.) When any order decree is made under any Act or at common law for payment by a soldier of the regular forces either of the cost of the maintenance of his wife or child, or of any bastard child of whom he is the putative father, or of the cost of any relief given to his wife or child by way of loan, a copy of such order or decree shall be sent to a Secretary of State, and in the case—

(*a*) of such order or decree being so sent; or

(*b*) of it appearing to the satisfaction of a Secretary of State that a soldier of the regular forces has deserted or left in destitute circumstances, without reasonable cause, his wife or any of his legitimate children under fourteen years of age,

the Secretary of State may order a portion not exceeding sixpence of the daily pay of a non-commissioned officer who is not below the rank of sergeant, and not exceeding threepence of the daily pay of any other soldier, to be deducted from such daily pay, and to be appropriated, in the first case, in liquidation of the sum adjudged to be paid by such order or decree, and in the second case, towards the maintenance of such wife or children, in such manner as the Secretary of State thinks fit.

(3.) Where a proceeding is instituted against a soldier of the regular forces under any Act, or at common law, for the purpose of enforcing against him any such liability as above in this section mentioned, and such soldier is quartered out of the jurisdiction of the court, or, if the proceeding is before a court of summary jurisdiction, out of the petty sessional division in which

the proceeding is instituted, the process shall be served on the commanding officer of such soldier, and such service shall not be valid unless there be left therewith, in the hands of the commanding officer, a sum of money (to be adjudged as costs incurred in obtaining the order or decree, if made against the soldier) sufficient to enable him to attend the hearing of the case and return to his quarters, and such sum may be expended by the commanding officer for that purpose; and no process whatever under any Act or at common law in any proceeding in this section mentioned shall be valid against a soldier of the regular forces if served after such soldier is under orders for service beyond the seas.

Exemptions of officers and soldiers.

146. A PERSON who is commissioned and in full pay as an officer in Her Majesty's regular forces shall not be capable of being nominated or elected to be sheriff of any county, borough, or other place, or to be mayor or alderman of, or to hold any office in, any municipal corporation in any city, borough, or place in the United Kingdom.

Officers not to be sheriffs or mayors.

147. EVERY soldier in Her Majesty's regular forces shall be exempt from serving on any jury.

Exemption from jury.

Court of Requests in India.

Court of Requests in India.

148. (1.) WHERE any part of Her Majesty's regular forces is serving in India beyond the jurisdiction of any court of small causes established by or under the authority of the Governor General of India in Council, actions of debt and personal actions against officers and other persons subject to military law, with the exception of persons being soldiers of the regular forces, which would be cognizable by such court of small causes if the said part of Her Majesty's regular forces were within the jurisdiction of the court, shall be cognizable before a court of requests composed of officers, and not elsewhere; provided that—

Military court of requests in India.

(*a*) the value in question does not exceed four hundred rupees; and

(*b*) the defendant was a person of the above description when the cause of action arose; and

(*c*) nothing in this Act shall enable an action to be brought in a military court of requests by an officer or soldier of the regular forces against an officer of the regular forces.

(2.) The commanding officer of any camp, garrison, cantonment, or military post is hereby empowered to convene any such court.

(3.) Whenever, owing to paucity of officers, or to any other cause, a court of requests cannot conveniently be held at the place where the defendant may be, the officer commanding the division or district may authorise a court to be convened by the officer commanding at the nearest place where such court can be formed.

Court of Requests in India.

Constitution and proceedings of military court of requests.

149. (1.) COURTS of request under this Act shall in all practicable cases consist of five officers, and in no instance of less than three.

(2.) The president thereof shall in all practicable cases be a field officer, and in no case be under the rank of a captain.

(3.) Every member shall have served not less than five years as a commissioned officer.

(4.) Before any proceedings are had before such court the president and members shall take the following oath, which oath shall be administered by the president of the court to the other members thereof, and to the president by any sworn member; (that is to say,)

'You , swear, that you will duly administer justice 'according to the evidence in the matters brought before you.

'So help you GOD.'

(5.) All witnesses before any such court shall be sworn and examined in the like manner as in the case of a trial by court-martial, and shall be liable to the same punishment for giving false evidence.

(6.) The provisions of this Act with respect to the substitution of a solemn declaration for an oath in the case of a court-martial, shall apply as if they were enacted in this section, and in terms made applicable thereto.

Execution of judgment of military court of requests.

150. (1.) A MILITARY court of requests held in India under the authority of this Act, on adjudging payment of any sum by any person subject to military law (in this section referred to as the debtor), may either award execution thereof generally, or direct specially that the amount named in the direction, being the whole or any part of the said sum, shall be paid by instalments or otherwise out of any pay or other public money payable to the debtor, and the amount named in the direction, not exceeding one half of such pay and public money, shall, while the debtor is in India, be stopped and paid in conformity with the direction.

(2.) Where execution is awarded generally by a military court of requests, the sum, if not paid forthwith, shall be levied by seizure and public sale of such of the property of the debtor as may be found within the camp, garrison, cantonment, or military post to which the debtor belongs, and, if the proceeds are insufficient to pay the said sum, as may be found within the limits of a camp, garrison, cantonment, or military post in India to which the debtor may belong at any subsequent time.

(3.) The levy and seizure shall be made under a written order of the commanding officer of such camp, garrison, cantonment, or military post, grounded on the judgment of the court.

(4.) The arms and equipment of a debtor shall not be liable to be seized or sold under this section.

Court of Requests in India.

(5.) All orders of the commanding officer as to the manner of such sale, or the person by whom the same shall be made, or otherwise respecting the same, shall be duly observed; and if any question arises whether any such property is liable to be seized or sold as aforesaid, the decision of the said commanding officer thereon shall be final.

(6.) If sufficient property is not found within the limits of the camp, garrison, cantonment, or military post, then any pay or public money (not exceeding one half) accruing to the debtor shall, while the debtor is in India, be stopped, in liquidation of the said sum.

(7.) If the debtor does not receive pay as an officer or from any public department, he may be arrested by order of the commanding officer of the camp, garrison, cantonment, or military post, and imprisoned in some convenient place within the camp, garrison, cantonment, or military post, for any period not exceeding two months, unless the said sum be sooner paid.

(8.) The commanding officer shall not, nor shall any person acting on his orders in respect of the matters aforesaid, incur any liability to any person whomsoever for any act done by him in execution or intended execution of the provisions of this section.

Courts of small causes and civil courts in India.

151. (1.) In India all actions of debt and personal actions against persons subject to military law, other than soldiers of the regular forces, within the jurisdiction of any court of small causes, shall be cognisable by such court to the extent of its powers.

(2.) All such actions where the amount sued for exceeds four hundred rupees shall be cognisable by a civil court or court of small causes only.

(3.) A civil court or court of small causes, upon adjudging payment of any sum by any person subject to military law other than a soldier of the regular forces, may either award execution thereof generally, or may direct specially that the amount named in the direction, being the whole or any part of the said sum, shall be paid by instalments or otherwise out of any pay or other public money payable to the debtor, and the amount named in the direction, not exceeding one half of such pay and public money, shall, while the debtor is in India, be stopped and paid in conformity with the direction.

(4.) In regard to award of execution generally, a civil court or court of small causes shall proceed in accordance with the rules of procedure of such court in India.

Legal Penalties in Matters respecting Forces.

Legal penalties in matters respecting forces.

Punishment for pretending to be a deserter.

152. Any person who falsely represents himself to any military, naval, or civil authority to be a deserter from Her Majesty's regular forces shall on summary conviction be sentenced to be imprisoned, with or without hard labour, for any period not exceeding three months.

Legal penalties in matters respecting forces.

Punishment for inducing soldiers to desert.

153. ANY person who in the United Kingdom or elsewhere by any means whatsoever—

(1) procures or persuades any soldier to desert, or attempts to procure or persuade any soldier to desert; or

(2) knowing that a soldier is about to desert, aids or assists him in deserting; or

(3) knowing any soldier to be a deserter, conceals such soldier, or aids or assists him in concealing himself, or aids or assists in his rescue,

shall be liable on summary conviction to be imprisoned, with or without hard labour, for a term not exceeding six months.

Apprehension of deserters.

154. WITH respect to deserters the following provisions shall have effect:

(1) upon reasonable suspicion that a person is a deserter, it shall be lawful for any constable, or if no constable can be immediately met with, then for any officer or soldier or other person, to apprehend such suspected person, and forthwith to bring him before a court of summary jurisdiction:

(2) where a person is brought before a court of summary jurisdiction charged with being a deserter under this Act, such court may deal with the case in like manner as if such person were brought before the court charged with an indictable offence, or in Scotland an offence:

(3) the court, if satisfied either by evidence on oath or by the confession of such person that he is a deserter, shall forthwith, as it may seem to the court most expedient with regard to his safe custody, cause him either to be delivered into military custody in such manner as the court may deem most expedient, or, until he can be so delivered, to be committed to some prison, police station, or other place legally provided for the confinement of persons in custody, for such reasonable time as appears to the court reasonably necessary for the purpose of delivering him into military custody:

(4) where the person confessed himself to be a deserter, and evidence of the truth or falsehood of such confession is not then forthcoming, the court shall remand such person for the purpose of obtaining information as to the truth or falsehood of the said confession, and for that purpose the court shall transmit, if sitting in the United Kingdom to a Secretary of State, and if in India to the general or other officer commanding the forces in the military district or station where the court sits, and if in a colony to the general or other officer commanding the forces in that colony, a return (in

this Act referred to as a descriptive return) containing such particulars and being in such form as is specified in the fourth schedule to this Act, or as may be from time to time directed by a Secretary of State:

Legal penalties in matters respecting forces.

(5) the court may from time to time remand the said person for a period not exceeding eight days in each instance and not exceeding in the whole such period as appears to the court reasonably necessary for the purpose of obtaining the said information:

(6) where the court cause a person either to be delivered into military custody or to be committed as a deserter, the court shall send, if in the United Kingdom to a Secretary of State, and if in India or a colony to the general or other officer commanding as aforesaid, a descriptive return in relation to such deserter, for which the clerk of the court shall be entitled to a fee of two shillings:

(7) a Secretary of State shall direct payment of the said fee.

Penalty on trafficking in commissions. 34 & 35 Vict. c. 86.

155. EVERY person (except the Army Purchase Commissioners, and persons acting under their authority by virtue of the Regulation of the Forces Act, 1871,) who negotiates, acts as agent for, or otherwise aids or connives at—

(1) the sale or purchase of any commission in Her Majesty's regular forces; or

(2) the giving or receiving of any valuable consideration in respect of any promotion in or retirement from such forces, or any employment therein; or

(3) any exchange which is made in manner not authorised by regulations made in pursuance of the Regimental Exchanges Act, 1875, and in respect of which any sum of money or other consideration is given or received,

38 & 39 Vict. c. 16.

shall be liable on conviction on indictment or information to a fine of one hundred pounds, or to imprisonment for any period not exceeding six months, and if an officer, on conviction by court-martial, to be dismissed the service.

Penalty on purchasing from soldiers regimental necessaries, equipments, stores, &c.

156. (1.) EVERY person who—

(*a*) buys, exchanges, takes in pawn, detains, or receives from a soldier, or any person acting on his behalf, on any pretence whatsoever; or

(*b*) solicits or entices any soldier to sell, exchange, pawn, or give away; or

(*c*) assists or acts for a soldier in selling, exchanging, pawning, or making away with,

any of the property following; namely, any arms, ammunition, equipments, instruments, regimental necessaries, or clothing, or any military decorations of an officer or soldier, or any furniture, bedding, blankets, sheets, utensils, and

Le al penalties in matters respecting forces.

stores in regimental charge, or any provisions or forage issued for the use of an an officer or soldier, or his horse, or of any horse employed in Her Majesty's service, shall, unless he proves either that he acted in ignorance of the same being such property as aforesaid, or of the person with whom he dealt being or acting for a soldier, or that the same was sold by order of a Secretary of State or some competent military authority, be liable on summary conviction, in the case of the first offence, to a fine not exceeding twenty pounds, together with treble the value of any property of which such offender has become possessed by means of his offence; and in the case of a second offence, to a fine not less than five pounds, and not exceeding twenty pounds, together with treble the value of any property of which such offender has become possessed by means of his offence, or to imprisonment, with or without hard labour, for a term not exceeding six months.

(2.) Where any such property as above in this section mentioned is found in the possession or keeping of any person, such person may be taken or summoned before a court of summary jurisdiction, and if such court have reasonable ground to believe that the property so found was stolen, or was bought, exchanged, taken in pawn, obtained or received in contravention of this section, then if such person does not satisfy the court that he came by the property so found lawfully and without any contravention of this Act, he shall be liable on summary conviction to a penalty not exceeding five pounds.

(3.) A person charged with an offence against this section, and the wife or husband of such person, may, if he or she think fit, be sworn and examined as an ordinary witness in the case..

(4.) A person found committing an offence against this section may be apprehended without warrant, and taken, together with the property which is the subject of the offence, before a court of summary jurisdiction; and any person to whom any such property as above mentioned is offered to be sold, pawned, or delivered, who has reasonable cause to suppose that the same is offered in contravention of this section, may, and if he has the power shall, apprehend the person offering such property, and forthwith take him, together with such property, before a court of summary jurisdiction.

(5.) A court of summary jurisdiction, if satisfied on oath that there is reasonable cause to suspect that any person has in his possession, or on his premises, any property on or with respect to which any offence in this section mentioned has been committed, may grant a warrant to search for such property, as in the case of stolen goods; and any property found on such search shall be seized by the officer charged with the execution of such warrant, who shall bring the person in whose possession the same is found before some court of summary jurisdiction, to be dealt with according to law.

(6.) For the purposes of this section property shall be deemed to be in the possession or keeping of a person if he knowingly has it in the actual possession or keeping of any other person, or in any house, building, lodging, apartment, field, or place, open or inclosed, whether occupied by himself or not, and whether the same is so had for his own use or benefit, or for the use or benefit of another. *Legal penalties in matters respecting forces.*

(7.) Articles which are public stores within the meaning of the Public Stores Act, 1875, and are not included in the foregoing description, shall not be deemed to be stores issued as regimental necessaries or otherwise within the meaning of section thirteen of that Act. 38 & 39 Vict. c. 25.

(8.) It shall be lawful for the Governor General of India or for the legislature of any colony, on the recommendation of the governor thereof, but not otherwise, by any law or ordinance to reduce a minimum fine under this section to such amount as may to such Governor General or legislature appear to be better adapted to the pecuniary means of the inhabitants.

Jurisdiction.

Jurisdiction.

Person not to be tried twice.

157. WHERE a person subject to military law has been acquitted or convicted of an offence by a court-martial, he shall not be liable to be tried again by a court-martial in respect of that offence.

Liability to military law in respect of status.

158. (1.) WHERE an offence under this Act has been committed by any person while subject to military law, such person may be taken into and kept in military custody, and tried and punished for such offence, although he, or the corps or battalion to which he belongs, has ceased to be subject to military law, in like manner as he might have been taken into and kept in military custody, tried or punished, if he or such corps or battalion had continued so subject:

Provided that where a person has since the commission of an offence ceased to be subject to military law, he shall not be tried for such offence, except in the case of the offence of mutiny, desertion, or fraudulent enlistment, unless his trial commences within three months after he has ceased to be subject to military law; but this section shall not affect the jurisdiction of a civil court in the case of any offence triable by such court as well as by court-martial.

(2.) Where a person subject to military law is sentenced by court-martial to penal servitude or imprisonment, this Act shall apply to him during the term of his sentence, notwithstanding that he is discharged or dismissed from Her Majesty's service, or has otherwise ceased to be subject to military law, and he may be kept, removed, imprisoned, and punished accordingly as if he continued to be subject to military law.

Jurisdiction.

Liability to military law in respect of place of commission of offence.

159. ANY person subject to military law who within or without Her Majesty's dominions commits any offence for which he is liable to be tried by court-martial may be tried and punished for such offence at any place (either within or without Her Majesty's dominions) which is within the jurisdiction of an officer authorised to convene general courts-martial, and in which the offender may for the time being be, in the same manner as if the offence had been committed where the trial by court-martial takes place, and the offender were under the command of the officer convening such court-martial.

Punishment not increased by trial elsewhere than offence committed.

160. No person shall be subject to any punishment or penalties under the provisions of this Act other than those which could have been inflicted if he had been tried in the place where the offence was committed.

Liability to military law in respect of time for trial of offences.

161. A PERSON shall not in pursuance of this Act be tried or punished for any offence triable by court-martial committed more than three years before the date at which his trial begins, except in the case of the offence of mutiny, desertion, or fraudulent enlistment; but this section shall not affect the jurisdiction of a civil court in the case of any offence triable by such court, as well as by court-martial; and where a soldier has served continuously in an exemplary manner for not less than three years in any corps of Her Majesty's regular forces he shall not be tried for any such offence of desertion (other than desertion on active service), or of fraudulent enlistment, as was committed before the commencement of such three years, but where such offence was fraudulent enlistment all service prior to such enlistment shall be forfeited.

Adjustment of military and civil law.

162. (1.) IF a person sentenced by a court-martial in pursuance of this Act to punishment for an offence is afterwards tried by a civil court for the same offence, that court shall, in awarding punishment, have regard to the military punishment he may have already undergone.

(2.) Save as aforesaid, nothing in this Act shall exempt an officer or soldier from being proceeded against by the ordinary course of law, when accused or convicted of any offence, except such an offence as is declared not to be a crime for the purpose of the provisions of this Act relating to taking a soldier out of Her Majesty's service.

(3.) If an officer—

(*a*) neglects or refuses on application to deliver over to the civil magistrate any officer or soldier under his command, who is so accused or convicted as aforesaid; or

(*b*) wilfully obstructs or neglects or refuses to assist constables or other ministers of justice in apprehending any such officer or soldier,

such commanding officer shall, on conviction in any of Her Majesty's

superior courts in the United Kingdom, or in a supreme court in India, be guilty of a misdemeanor. *Jurisdiction.*

(4.) A certificate of a conviction of an officer under this section, with the judgment of the court thereon in such form as may be directed by a Secretary of State, shall be transmitted to such Secretary of State.

(5.) Any offence committed by any such commanding officer out of the United Kingdom shall for the purpose of the apprehension, trial and punishment of the offender be deemed to have been committed within the jurisdiction of Her Majesty's High Court of Justice in England; and such court shall have jurisdiction as if the place where the offence was committed or the offender may for the time being be were in England.

(6.) Where a person subject to military law has been acquitted or convicted of an offence by a competent civil court, he shall not be liable to be tried in respect of that offence under this Act.

Evidence.

Evidence.

Regulations as to evidence.

163. (1.) THE following enactments shall be made with respect to evidence in proceedings under this Act, whether before a civil court or a court-martial; that is to say,

(*a*) the attestation paper purporting to be signed by a person on his being attested as a soldier, or the declaration purporting to be made by any person upon his re-engagement in any of Her Majesty's regular forces, or upon any enrolment in any branch of Her Majesty's service, shall be evidence of such person having given the answers to questions which he is therein represented as having given:

the enlistment of a person in Her Majesty's service may he proved by the production of a copy of his attestation paper purporting to be certified to be a true copy by the officer having the custody of the attestation paper without proof of the handwriting of such officer, or of his having the custody of the paper:

(*b*) a letter, return, or other document respecting the service of any person in or the discharge of any person from any portion of Her Majesty's forces, or respecting a person not having served in or belonged to any portion of Her Majesty's forces, if purporting to be signed by or on behalf of a Secretary of State, or of the Commissioners of the Admiralty, or by the commanding officer of any portion of Her Majesty's forces, or of any of Her Majesty's ships, to which such person appears to have belonged, or alleges that he belongs or had belonged, shall be evidence of the facts stated in such letter, return, or other document:

Evidence.

(*c*) copies purporting to be printed by a Government printer of Queen's regulations, of royal warrants, of army circulars, and of rules made by Her Majesty, or a Secretary of State, in pursuance of this Act, shall be evidence of such regulations, royal warrants, army circulars, and rules:

(*d*) an army list or gazette purporting to be published by authority, and either to be printed by a Government printer or to be issued, if in the United Kingdom, by Her Majesty's Stationery Office, and if in India, by some office under the Governor General of India or the Governor of any presidency in India, shall be evidence of the status and rank of the officers therein mentioned, and of any appointment held by such officers, and of the corps or battalion or arm or branch of the service to which such officers belong:

(*e*) any warrants or orders made in pursuance of this Act by any military authority shall be deemed to be evidence of the matters and things therein directed to be stated by or in pursuance of this Act, and any copies of such warrants or orders purporting to be certified to be true copies by the officer therein alleged to be authorised by a Secretary of State or Commander-in-Chief to certify the same shall be admissible in evidence:

(*f*) evidence of the delivery at the then last registered place of abode of a man enrolled in the Army Reserve of a notice issued by the proper officer under the direction of a Secretary of State or of the delivery of a letter containing such notice addressed to the said place of abode, shall be evidence that such notice was brought to the knowledge of such man:

(*g*) where a record is made in one of the regimental books in pursuance of any Act or of the Queen's regulations, or otherwise in pursuance of military duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated:

(*h*) a copy of any record in one of the said regimental books purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record:

(*i*) a descriptive return within the meaning of this Act, purporting to be signed by a justice of the peace, shall be evidence of the matters therein stated.

(2.) For the purposes of this Act the expression "Government printer" means any printer to Her Majesty, and in India any Government press.

Evidence of

164. WHENEVER any person subject to military law has been tried by any

Evidence.

civil court, the clerk of such court, or his deputy, or other officer having the custody of the records of such court, shall, if required by the commanding officer of such person, or by any other officer, transmit to him a certificate setting forth the offence for which the person was tried, together with the judgment of the court thereon if he was convicted, and the acquittal if he was acquitted, and shall be allowed for such certificate a fee of three shillings. Any such certificate shall be sufficient evidence of the conviction and sentence or of the acquittal of the prisoner, as the case may be.

civil conviction or acquittal.

Evidence of conviction by court-martial.

165. THE original proceedings of a court-martial, purporting to be signed by the president thereof and being in the custody of the Judge Advocate General, or of the officer having the lawful custody thereof, shall be deemed to be of such a public nature as to be admissible in evidence on their mere production from such custody; and any copy purporting to be certified by such Judge Advocate General or his deputy authorised in that behalf, or by the officer having such custody as aforesaid, to be a true copy of such proceedings or of any part thereof, shall be admissible in evidence without proof of the signature of such Judge Advocate General, deputy, or officer; and a Secretary of State, upon production of any such proceedings or certified copy, may, by warrant under his hand, authorise the offender appearing therefrom to have been convicted and sentenced to any punishment, to be imprisoned and otherwise dealt with in accordance with the sentence in the proceedings or certified copy mentioned.

Summary and other Legal Proceedings.

Summary and other legal proceedings.

Prosecution of offences, and recovery and application of fines.

166. (1.) A COURT of summary jurisdiction having jurisdiction in the place where the offence was committed or in the place where the offender may for the time being be shall have jurisdiction over all offences triable in a civil court under this Act, except any such offence as is declared by this Act to be a misdemeanour, or to be punishable on indictment; and any offence within the jurisdiction of a court of summary jurisdiction may be prosecuted, and the fine and forfeiture in respect thereof may be recovered on summary conviction, in manner provided by the Summary Jurisdiction Acts.

(2.) Any proceedings taken before a court of summary jurisdiction in pursuance of this Act shall be taken in accordance with the Summary Jurisdiction Acts so far as applicable.

(3.) A court of summary jurisdiction imposing a fine in pursuance of this Act may, if it seem fit, order a portion of such fine not exceeding one half to be paid to the informer.

(4.) Where the maximum fine or imprisonment which a court of summary jurisdiction in England, when sitting in an occasional court-house, is author-

Summary and other legal proceedings.

ised by law to impose is less than the minimum fine or imprisonment fixed by this Act, the court may impose the maximum fine or imprisonment which such court is authorised by law to impose, but if required by either party, shall adjourn the case to the next practicable petty sessional court.

(5.) The court of summary jurisdiction in Ireland, when hearing and determining a case arising under this Act, shall be constituted either of two or more justices of the peace sitting at some court or public place at which justices are for the time being accustomed to assemble for the purpose of holding petty sessions, or of some magistrate or officer sitting alone or with others at some court or other place appointed for the public administration of justice and for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace.

(6.) Subject to the provisions of this Act with regard to the payment to the informer, fines and other sums recovered before a court of summary jurisdiction in pursuance of this Act shall, notwithstanding anything contained in any other Act, if recovered in England, be paid into the Exchequer, and if recovered in Ireland, shall be applied in manner directed by the Fines Act (Ireland), 1851, and any Acts amending the same.

14 & 15 Vict. c. 90.

Summary proceedings in Scotland.

167. (1.) In Scotland, offences and fines which may be prosecuted and recovered on summary conviction may be prosecuted and recovered and proceedings under this Act may be taken at the instance of the procurator fiscal of the court, or of any person in that behalf authorised by a Secretary of State or the Commander-in-Chief, or of any person authorised by this Act to complain.

(2.) All fines under this Act in default of payment, and all orders made under this Act failing compliance, may be enforced by imprisonment for a term to be specified in the order or conviction, but not exceeding three months, and the conviction and warrant may be in the form number three of Schedule K. of the Summary Procedure Act, 1864.

27 & 28 Vict. c. 53.

(3.) All fines and other sums recovered under this Act before a court of summary jurisdiction, subject to any payment made to the informer, shall be paid to the Queen's and Lord Treasurer's Remembrancer, on behalf of Her Majesty.

(4.) It shall be no objection to the competency of a person to give evidence as a witness in any prosecution for offences under this Act, that such prosecution is brought at the instance of such person.

(5.) Every person convicted of an offence under this Act shall be liable in the reasonable costs and charges of such conviction.

(6.) All jurisdictions, powers, and authorities necessary for the purposes of this Act are conferred on the sheriffs and their substitutes and on justices of the peace.

Summary and other legal proceedings.

(7.) The court may make, and may also from time to time alter or vary, summary orders under this Act on petition by the procurator fiscal of the court, or such person as aforesaid, presented in common form.

Summary proceedings in Isle of Man, Channel, Islands, India, and the colonies.

168. ALL offences under this Act which may be prosecuted, and all fines under this Act which may be recovered on summary conviction, and all proceedings under this Act which may be taken before a court of summary jurisdiction, may be prosecuted and recovered and taken in the Isle of Man, Channel Islands, India, and any colony in such courts and in such manner as may be from time to time provided therein by law, or if no express provision is made, then in and before the courts and in the manner in which the like offences and fines may be prosecuted and recovered and proceedings taken therein by law, or as near thereto as circumstances admit.

Power of Governor-General of India and legislature of colony as to fines.

169. IT shall be lawful for the Governor-General of India, and for the legislature of any colony, to provide by law for reducing any fine directed by this Act to be recovered on summary conviction to such amount as may appear to the Governor-General or legislature to be better adapted to the pecuniary means of the inhabitants, and also to declare the amount of the local currency which is to be deemed for the purposes of this Act to be equivalent to any sum of British currency mentioned in this Act.

Protection of persons acting under Act.

170. (1.) ANY action, prosecution, or proceeding against any person for any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act, shall not lie or be instituted unless it is commenced within twelve months next after the act, neglect, or default complained of, or, in case of a continuance of injury or damage, within twelve months next after the ceasing thereof.

(2.) In any such action tender of amends before the action was commenced may, in lieu of or in addition to any other plea, be pleaded. If the action was commenced after such tender, or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after such tender or payment, and the defendants shall be entitled to costs, to be taxed as between solicitor and client, as from the time of such tender or payment; but this provision shall not affect costs on any injunction in the action.

(3.) Every such action, and also every action against a member or minister of a court-martial in respect of a sentence of such court, or of anything done by virtue or in pursuance of such sentence, shall be brought in one of Her Majesty's superior courts in the United Kingdom (which courts shall have jurisdiction to try the same wherever the matter complained of occurred) or in a supreme court in India, or in any colonial court of superior jurisdiction,

provided the matter complained of occurred within the jurisdiction of such Indian or colonial court respectively, and in no other court whatsoever.

Miscellaneous.

Miscellaneous.

Exercise of powers vested in holder of military office.

171. ANY power or jurisdiction given to, and any act or thing to be done by, to, or before any person holding any military office may be exercised by, or done by, to, or before any other person for the time being authorised in that behalf according to the custom of the service.

Provisions as to warrants and orders of military authorities.

172. (1.) WHERE any order is authorised by this Act to be made by the Commander-in-Chief or the Adjutant-General, or by the Commander-in-Chief or Adjutant-General of the forces in India or in any presidency in India, or by any general or other officer commanding, such order may be signified by an order, instruction, or letter under the hand of any officer authorised to issue orders on behalf of such Commander-in-Chief, Adjutant-General, or general or other officer commanding, and an order, instruction, or letter purporting to be signed by any officer appearing therein to be so authorised shall be evidence of his being so authorised.

(2.) An order issued in pursuance of this Act in relation to a military convict or military prisoner shall not be held void by reason of the death or removal from office of the officer issuing the same, or by reason of any defect in such order, if it be alleged in such order that the convict or prisoner has been convicted, and there is a good and valid conviction to sustain the order.

(3.) An order in any case if issued in the prescribed form shall be valid, but an order deviating from the prescribed form if otherwise valid shall not be rendered invalid by reason only of such deviation.

(4.) Where any military convict or miltary prisoner is for the time being in custody, whether military or civil, in any place or manner in which he might legally be kept in pursuance of this Act, the custody of such convict or prisoner shall not be deemed to be illegal only by reason of any informality or error in or as respects the order, warrant, or other document, or the authority by or in pursuance whereof such convict or prisoner was brought into or is detained in such custody, and any such order, warrant, or document may be amended accordingly.

Furlough in case of sickness.

173. IF any soldier on furlough is detained by sickness or other casualty rendering necessary any extension of such furlough in any place, and there is not any officer in the performance of military duty of the rank of captain, or of higher rank, within convenient distance of the place, any justice of the peace who is satisfied of such necessity may grant an extension of furlough for a period not exceeding one month; and the said justice shall by letter immediately certify such extension and the cause thereof to the commanding

officer of such soldier, if known, and if not, then to a Secretary of State. The soldier may be recalled to duty by his commanding officer or other competent military authority, and the furlough shall not be deemed to be extended after such recall; but, save as aforesaid, the soldier shall not in respect of the period of such extension of furlough, be liable to be treated as a deserter, or as absent without leave. *Miscellaneous.*

174. (1.) WHEN a person holds a canteen under the authority of a Secretary of State or the Admiralty, it shall be lawful for any two justices within their respective jurisdictions to grant, transfer, or renew any license for the time being required to enable such person to obtain or hold any excise license for the sale of any intoxicating liquor, without regard to the time of year, and without regard to the requirements as to notices, certificates, or otherwise, of any Acts for the time being in force affecting such licenses; and excise licenses may be granted to such persons accordingly. *Licenses of canteens.*

(2.) For the purposes of this section the expression license includes any license or certificate for the time being required by law to be granted, renewed, or transferred by any justices of the peace, in order to enable any person to obtain or hold any excise license for the sale of any intoxicating liquor.

PART V.

APPLICATION OF MILITARY LAW, SAVING PROVISIONS, AND DEFINITIONS.

Persons subject to military law.

Persons subject to Military Law.

175. THE persons in this section mentioned are persons subject to military law as officers, and this Act shall apply accordingly to all the persons so specified; that is to say, *Persons subject to military law as officers.*

(1) officers of the regular forces on full pay, and, if not otherwise subject to military law, officers of the staff of the army, and officers employed on military service under the orders of an officer of the regular forces:

(2) officers who are members of the permanent staffs of any of the auxiliary forces, and are not otherwise subject to military law:

(3) officers of the militia other than members of the permanent staff:

(4) all such persons not otherwise subject to military law as may be serving in the position of officers of any troops or portion of troops

Persons subject to military law.

raised by order of Her Majesty beyond the limits of the United Kingdom and of India, and serving under the command of an officer of the regular forces:

provided that nothing in this Act shall affect the application to such persons of any Act passed by the legislature of a colony:

(5) officers of the yeomanry, and officers of the volunteers, whenever in actual command of men who are in pursuance of this Act subject to military law, or when their corps is on actual military service:

(6) any officer of the yeomanry or volunteers, whether in receipt of pay or otherwise, during and in respect of the time when with his own consent he is attached to or doing duty with any body of troops for the time being subject to military law, whether of the regular or auxiliary forces, or, with his own consent, is ordered on duty by the military authorities:

(7) every person not otherwise subject to military law who under the general or special orders of a Secretary of State or of the Governor-General of India accompanies in an official capacity equivalent to that of officer any of Her Majesty's troops on active service in any place beyond the seas, subject to this qualification, that where such person is a native of India he shall be subject to that law as an officer:

(8) any person, not otherwise subject to military law, accompanying a force on active service, who shall hold from the commanding officer of such force a pass, revocable at the pleasure of such commanding officer, entitling such person to be treated on the footing of an officer.

Persons subject to military law as soldiers.

176. THE persons in this section mentioned are persons subject to military law as soldiers, and this Act shall apply accordingly to all the persons so specified; that is to say,

(1) all soldiers of the regular forces:

(2) all non-commissioned officers and men of the permanent staff of any of the auxiliary forces who are not otherwise subject to military law:

(3) all non-commissioned officers and men serving in a force raised by order of Her Majesty beyond the limits of the United Kingdom and of India, and serving under the command of an officer of the regular forces:

provided that nothing in this Act shall affect the application to such non-commissioned officers and men of any Act passed by the legislature of a colony:

(4) all pensioners not otherwise subject to military law who are employed

Persons subject to military law.

in military service under the orders of an officer of the regular forces:

(5) all non-commissioned officers and men belonging to the army reserve force or the militia reserve force,—

(*a*) when called out for training and exercise; and

(*b*) when called out for duty in aid of the civil power; and

(*c*) when called out on permanent service under Her Majesty's proclamation:

(6) all non-commissioned officers and men in the militia of the United Kingdom,—

(*a*) during their preliminary training; and

(*b*) when they or the body of militia to which they belong are being trained or exercised either alone or with any portion of the regular forces or otherwise; and

(*c*) when attached to or otherwise acting as part of or with any regular forces; and

(*d*) when embodied:

(7) all non-commissioned officers and men belonging to the yeomanry force of the United Kingdom,—

(*a*) when they or their corps are being trained or exercised, either alone or with any portion of regular forces, or with any portion of the militia when subject to military law; and

(*b*) when they are attached to or otherwise acting as part of or with any regular forces; and

(*c*) when their corps is on actual military service; and

(*d*) when serving in aid of the civil power:

(8) all non-commissioned officers and men belonging to the volunteer forces of the United Kingdom,—

(*a*) when they are being trained or exercised with any portion of the regular forces or with any portion of the militia when subject to military law; and

(*b*) when they are attached to or otherwise acting as part of or with any regular forces; and

(*c*) when their corps is on actual military service:

provided that it shall be the duty of the commanding officer of any part of the volunteer force not in actual military service, when he knows that any non-commissioned officers or men belonging to that force are about to enter upon any service which will render them subject to military law, to provide for their being informed that they will become so subject, and for their having an opportunity of abstaining from entering on that service:

Persons subject to military law.

(9) all persons who are employed by or are in the service of any of Her Majesty's troops when employed on active service beyond the seas, and who are not under the former provisions of this Act subject to military law:

(10) all persons not otherwise subject to military law who are followers of or accompany Her Majesty's troops, or any portion thereof, when employed on active service beyond the seas; subject to this qualification that, where any such persons are employed by or are followers of, or accompany any portion of, Her Majesty's forces, consisting partly of Her Majesty's Indian forces subject to Indian military law, and such persons are natives of India, they shall be subject to Indian military law.

Persons belonging to colonial forces and subject to military law as officers or soldiers.

177. WHERE any force of volunteers, or of militia, or any other force, is raised in India or in a colony, any law of India or the colony may extend to the officers, non-commissioned officers and men belonging to such force, whether within or without the limits of India or the colony; and where any such force is serving with part of Her Majesty's regular forces, then so far as the law of India or the colony has not provided for the government and discipline of such force, this Act and any other Act for the time being amending the same shall, subject to such exceptions and modifications as may be specified in the general orders of the general officer commanding Her Majesty's forces with which such force is serving, apply to the officers, non-commissioned officers, and men of such force, in like manner as they apply to the officers, non-commissioned officers, and men respectively mentioned in the two preceding sections of this Act.

Mutual relations of regular forces and auxiliary forces.

178. WHEN officers, non-commissioned officers, and men belonging to the auxiliary forces, or any pensioners, are subject to military law in pursuance of this Act, such officers, non-commissioned officers, men and pensioners shall be subject to this Act in all respects as if they were part of the regular forces, and the provisions of this Act shall be construed as if such officers, non-commissioned officers, men and pensioners were included in the expression "regular forces": Provided that nothing in this section contained shall affect the conditions of service of any officer, non-commissioned officer, or man belonging to such auxiliary forces, or of any pensioner.

Modification of Act with respect to Royal Marines.

179. IN the application of this Act to Her Majesty's Royal Marines the following modifications shall be made:

(1.) Nothing in this Act shall prejudice any power of the Admiralty to make Articles of War for the Royal Marines or otherwise prejudice the authority of the Admiralty over the Royal Marines or confer on any officers who are not officers of the Royal Marines any greater

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authority to command the Royal Marines than they have heretofore used; and a general court-martial for the trial of an officer or man in the Royal Marines shall not be convened except by an officer authorised by a warrant from the Admiralty in pursuance of this section, and except that, where such officer or man while subject to this Act is serving beyond the seas with any other portion of the regular forces, and in the opinion of the general or other officer commanding those forces (such opinion to be stated in the order convening the court and to be conclusive), there is not present any officer authorised by warrant from the Admiralty to convene a general court-martial, a general court-martial convened by such general or other officer, if authorised to convene general courts-martial, may try such officer or man.

(2.) A district court-martial for the trial of a man in the Royal Marines may be convened by any officer having authority to convene a district court-martial for the trial of any soldier of any other portion of the regular forces.

(3.) Any power in relation to the convening of courts-martial, or of authorising an officer to convene courts-martial, or to delegate the powers of convening courts-martial, or of confirming the findings and sentences of courts-martial, or otherwise in relation to courts-martial, which under this Act Her Majesty may exercise by any warrant or warrants, may be exercised in Her Majesty's name by a warrant or warrants from the Admiralty; and any such warrant may be addressed to any officer to whom any warrant of Her Majesty can be addressed.

(4.) Any power vested by this Act in Her Majesty in relation to the confirmation of the findings and sentences of courts-martial, or otherwise in relation to courts-martial, may be exercised by the Admiralty.

(5.) Without prejudice to any power of confirmation, the findings and sentences of any general or district courts-martial on an officer or man of the Royal Marines may be confirmed by an officer authorised under this section to convene the same, or by any officer otherwise authorised under this Act to confirm the findings and sentences of general or district courts-martial, as the case may be, for the trial of any soldier of any other portion of the regular forces.

(6.) Any power vested in Her Majesty by this Act in relation to the making of rules, or to any order with respect to pay, or to any complaint in respect of an officer who thinks himself wronged, shall be vested in and exercised by the Admiralty, and the provisions of this

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Act respectively relating to such rules, orders, and complaints shall be construed, so far as respects the Royal Marines, as if "the Admiralty" were substituted for Her Majesty, as well as for the Secretary of State.

(7.) Anything required or authorised by this Act to be done by, to, or before a Secretary of State, the Commander-in-Chief, Adjutant-General, or Judge Advocate General, may, as regards the Royal Marines, be done by, to, or before the Admiralty; and the provisions of this Act shall be construed, so far as respects the Royal Marines, as if "the Admiralty" were substituted for "Secretary of State," "Commander-in-Chief," "Adjutant-General," and "Judge Advocate General," wherever those words occur.

(8.) Anything required or authorised by this Act to be done by, to, or before the Commander-in-Chief of the forces in India, or of any presidency in India, or the general or other officer commanding the forces in any colony or elsewhere, may, as regards the Royal Marines, be done by, to, or before such officer as the Admiralty may by warrant from time to time appoint in that behalf, and, if no such appointment is made, by such Commander-in-Chief or general or other officer.

(9.) Anything authorised by this Act to be done by Royal warrant may be done, as regards the Royal Marines, by warrant of the Admiralty, and the provisions of this Act with respect to Royal warrants printed by the Government printer shall apply to any warrants of the Admiralty under this Act.

(10.) Anything authorised to be done by the deputy of the Judge Advocate General may be done by any one of the Commissioners for executing the office of Lord High Admiral, or by a secretary of the Admiralty.

(11.) In the provisions of this Act with respect to evidence, the expression "Queen's regulations" shall be deemed to include Admiralty regulations.

(12.) Nothing in the provisions of this Act relating to the term of enlistment, to the conditions of service, to appointment or transfer, to transfer to the reserve, to the re-engagement or prolongation of service or to forfeiture of service of a soldier of the regular forces, or to the rules for reckoning service for discharge or transfer to the reserve, shall apply to the Royal Marines.

(13.) A marine on his re-engagement shall make a declaration, either before a justice of the peace or person having under this Act the same

authority as a justice of the peace, for the purposes of enlistment, or before a naval officer commanding any ship commissioned by Her Majesty, or before the commanding officer of any battalion or detachment of Royal Marines, in the form from time to time directed by the Admiralty. *Persons subject to military law.*

(14.) A man in the Royal Marines shall forfeit his service for fraudulent enlistment and absence without leave in like manner as he forfeits it for desertion under the Acts relating to the Royal Marines.

(15.) Officers and men of the Royal Marines, during the time that they are borne on the books of any ship commissioned by Her Majesty (otherwise than for service on shore), shall be subject to the Naval Discipline Act, 1866, and to the laws for the government of officers and seamen in the Royal Navy, and to the rules for the discipline of the Royal Navy for the time being, and shall be tried and punished for any offence in the same manner as officers and seamen in the Royal Navy: 29 & 30 Vict. c. 109.

Provided that—

(*a*) the last-mentioned provision shall not prevent the application of this Act to any person dealing with or having any relations with any such officer or man of the Royal Marines or to any such officer or man if found on shore as a deserter or absentee without leave; and

(*b*) if any such officers or men of the Royal Marines are employed on land, the senior naval officer present may, if it seems to him expedient, order that they shall, during such employment, be subject to military law under this Act, and while such order is in force they shall be subject to military law under this Act accordingly.

(16.) If any officer or man of the Royal Marines who is borne on the books of any ship commissioned by Her Majesty commits an offence for which he is not amenable to a naval court-martial, but for which he can be punished under this Act, he may be tried and punished for such offence under this Act.

(17.) The Admiralty may direct that an officer or man of the Royal Marines may be tried under this Act for any offence committed by him on shore, whether he be or be not amenable to a naval court-martial for such offence, or be or be not borne on the books of any ship commissioned by Her Majesty.

(18.) Where any officer or man of the Royal Marines is on board any ship commissioned by Her Majesty, but is borne on the books thereof for service on shore, he shall be subject to the Naval Discipline Act, 29 & 30 Vict. c. 109.

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1866, to such extent and under such regulations as Her Majesty by Order in Council from time to time directs, and, so far as she does not so direct, as is for the time being directed by Order in Council with respect to the other regular forces.

29 & 30 Vict. c. 109.

(19.) Any naval prison within the meaning of the Naval Discipline Act, 1866, shall be deemed to be included in the definition of a public prison for the purposes of this Act, and the Admiralty shall not have any authority to establish any military prison under this Act.

(20.) In this section the expression "Admiralty" means the Lord High Admiral or the Commissioners for executing the office of the Lord High Admiral for the time being, or any two of them.

(21.) The expression "man of the Royal Marines" includes a non-commissioned officer of the Royal Marines.

Modification of Act with respect to Her Majesty's Indian forces.

180. (1.) In the application of this Act to Her Majesty's forces when serving in India the following modification shall be made:

a court-martial may take the same proceedings for the punishment of a person not subject to military law who, in any part of India, commits any offence as a witness before a court-martial, or is guilty of a contempt of a court-martial, as might be taken by any civil court in that part of India in the case of the like offence in that court, and any court in which such proceedings are taken shall have jurisdiction to punish such person accordingly.

(2.) In the application of this Act to Her Majesty's Indian forces the following modifications shall be made:

(*a.*) Nothing in this Act shall prejudice or affect the Indian military law respecting officers or soldiers or followers in Her Majesty's Indian forces, being natives of India; and on the trial of all offences committed by any such native officer, soldier, or follower, reference shall be had to the Indian military law for such native officers, soldiers, or followers, and to the established usages of the service, but courts-martial for such trials may be convened in pursuance of this Act.

(*b.*) For the purposes of this Act the expression "Indian military law" means the Articles of War or other matters made, enacted, or in force, or which may hereafter be made, enacted, or in force under the authority of the Government of India; and such articles or other matters shall extend to such native officers, soldiers, and followers wherever they are serving.

(*c.*) The Governor of any presidency in India may suspend the proceedings of any court-martial held in India on an officer or soldier belonging to Her Majesty's Indian forces within such presidency.

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(*d.*) An officer belonging to Her Majesty's Indian forces who thinks himself wronged by his commanding officer, and on due application made to him does not receive the redress to which he may consider himself entitled, may complain to the Commander-in-Chief in the presidency to which such officer belongs, who shall cause his complaint to be inquired into, and thereupon report to the Governor of such presidency in order to receive the further directions of that Governor.

(*e.*) A court-martial may sentence an officer of the Indian staff corps to forfeit all or any part of his army or staff service, or all or any part of both.

(*f.*) The Governor of any of the presidencies in India may reduce any warrant officer not holding an honorary commission, who is serving in or belonging to such presidency, to a lower grade of warrant rank, or may remand any such warrant officer to regimental duty in the regimental rank held by him immediately previous to his appointment to be a warrant officer.

(*g.*) The provisions of this Act relating to warrant officers not holding honorary commissions shall apply to hospital apprentices in India although not appointed by warrant.

(*h.*) Part Two of this Act shall not apply to Her Majesty's Indian forces, but persons may be enlisted and attested in India for medical service or for other special service in Her Majesty's Indian forces for such periods, by such persons, and in such manner as may be from time to time authorised by the Governor-General of India.

(3.) In this Act, so far as regards India, any reference to an indictable offence, or an offence punishable on indictment, shall be deemed to refer to an offence punishable with rigorous imprisonment.

Modification of Act with respect to auxiliary forces.

181. (1.) THE provisions of this Act with respect to enlistment shall not apply to a person enlisted or enrolled in any of Her Majesty's auxiliary forces, except so far as such person enlists or attempts to enlist in the regular forces, and except so far as the said provisions may be applied by any other Act.

(2.) The provisions of this Act shall apply to the permanent staff of the auxiliary forces who are not otherwise part of the regular forces, in like manner as if such permanent staff were part of the regular forces.

(3.) The provisions of this Act with respect to billeting and impressment of carriages shall apply to Her Majesty's auxiliary forces when subject to military law, in like manner as if they were part of the regular forces, subject to the following modification:

(4.) An order issued and signed as a route or an order signed by the officer

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commanding the battalion of militia, or the battalion or corps of yeomanry, or volunteers, shall be substituted for a route,—

(*a*) in the case of any militiaman attending for his preliminary training; and

(*b*) in the case of any militia officer, non-commissioned officer, or man, assembled for training and exercise at the place in the United Kingdom appointed by Her Majesty in that behalf; and

(*c*) in the case of any militia officer, non-commissioned officer, or man, embodied under an order of Her Majesty, who has joined his corps at the place appointed for his assembling; and

(*d*) in the case of any officer, non-commissioned officer, or man, of the yeomanry, or volunteers attending at the place at which his corps is required to assemble;

and an order to billet such officer, non-commissioned officer, or man, purporting to be signed in manner required by this Act in the case of a route or by the officer commanding a battalion of militia, or a battalion or corps of yeomanry, or volunteers, as the case may be, shall be evidence, until the contrary is proved, of the order being issued in accordance with this Act, and when delivered to an officer, non-commissioned officer, or man of the militia, yeomanry, or volunteers, shall be a sufficient authority to such officer, non-commissioned officer, or man, to demand billets, and when produced by an officer, non-commissioned officer, or man to a constable shall be conclusive evidence to such constable of the authority of the officer, non-commissioned officer, or man producing the same to demand billets in accordance with the order.

(5.) The competence or liability of an officer of the auxiliary forces to be nominated or elected to, or to hold the office of sheriff, mayor, or alderman, or an office in a municipal corporation, shall not be affected by reason of the battalion or corps to which he belongs being assembled for annual training at the time of such nomination or election, or during the time of his tenure of office.

(6.) When a member of the volunteers, being a non-commissioned officer or private, is subject to military law, dismissal may be awarded to him as a punishment, in the event of his committing any offence triable by court-martial or punishable by a commanding officer under this Act.

Special provisions as to warrant officers.

182. THE provisions of this Act shall apply to a warrant officer not holding an honorary commission in like manner as if he were a non-commissioned officer, subject nevertheless (in addition to the modifications for a non-commissioned officer) to the following modifications:

(1) he shall not be punished by his commanding officer nor tried by regimental court-martial, nor sentenced by a district court-martial to any punishment not in this section mentioned; and

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(2) without prejudice to any other power of a court-martial, he may be sentenced by a court-martial other than a regimental court-martial to be dismissed from the service or to be suspended from rank, and pay, and allowances, or any of them, for any period stated by the court-martial, or to be reduced to the bottom or any other place in the list of the rank which he holds, or to be reduced to an inferior class of warrant officer (if any), or if he was originally enlisted as a soldier and transferred to serve as a warrant officer, but not otherwise, to be reduced to a lower grade or to the ranks or to be transferred to a corps in the same arm or branch of the service and in the same regimental rank as that in which he served immediately before his transfer to be warrant officer;

(3) a warrant officer reduced to the ranks or remanded to regimental duty in the rank of private shall not be required to serve in the ranks as a soldier;

(4) the president of a court-martial for the trial of a warrant officer shall in no case be under the rank of captain.

Special provisions as to non-commissioned officer.

183. In the application of this Act to a non commissioned officer the following modifications shall apply:

(1) the obligation on a commanding officer to deal summarily with a soldier charged with drunkenness shall not apply to a non-commissioned officer charged with drunkenness:

(2) the Commander-in-Chief, and in India the Commander-in-Chief of the forces in India, and also the Commander-in-Chief of the forces in any presidency in India, may reduce any non-commissioned officer to any lower grade or to the ranks:

(3) a non-commissioned officer may be reduced by the sentence of a court-martial to any lower grade or to the ranks, either in addition to or without any other punishment, in respect of an offence:

(4) a non-commissioned officer sentenced by court-martial to penal servitude or imprisonment shall be deemed to be reduced to the ranks.

Provided that—

(*a*) an army schoolmaster shall not be liable to be reduced to the ranks, but may nevertheless be sentenced by a court-martial to penal servitude or imprisonment, or to a lower grade of pay, or to be dismissed, and if sentenced to penal servitude or imprisonment, shall be deemed to be dismissed; but

(*b*) the Commander-in-Chief, and in India the Commander-in-Chief of the forces in India, and also the Commander-in-Chief of the forces of any presidency in India, may dismiss an army schoolmaster

Persons subject to military law.

(*c*) a soldier being an acting non-commissioned officer by virtue of his employment either in a superior rank or in an appointment may be ordered by his commanding officer either for an offence or otherwise to revert to his permanent grade as a non-commissioned officer, or if he has no permanent grade above the ranks, to the ranks.

Special provisions as to application of Act to persons not belonging to Her Majesty's forces.

184. In the application of this Act to persons who do not belong to Her Majesty's forces, the following modifications shall be made :—

(1.) Where an offence has been committed by any person subject to military law who does not belong to Her Majesty's forces, such person may be tried by any description of court-martial other than a regimental court-martial, convened by an officer authorised to convene such description of court-martial, within the limits of whose command the offender may for the time being be, and may be tried and on conviction dealt with and punished accordingly.

(2.) Any person subject to military law who does not belong to Her Majesty's forces shall, for the purposes of this Act relating to offences, be deemed to be under the command of the commanding officer of the corps or portion of a corps (if any) to which he is attached, and if he is not attached to any corps or portion of a corps under the command of any officer who may for the time being be named as his commanding officer by the general or other officer commanding the force with which such person may for the the time being be, or of any other prescribed officer, or, if no such officer is named or prescribed, under the command of the said general or other officer commanding, but such person shall not be liable to be punished by a commanding officer or by a regimental court-martial.

Provided that a general or other officer commanding shall not place a person under the command of an officer of rank inferior to the official rank of such person if there is present, at the place where such person is, any officer of higher rank under whose command he can be placed.

Saving provisions.

Saving Provisions.

185. [*Omitted as not applying to India.*]

Saving of 29 & 30 Vict. c. 109. s. 88. as to forces when on board Her Majesty's ships.

186. Nothing in this Act shall affect the application of the Naval Discipline Act, 1866, or any Order in Council made thereunder, to any of Her Majesty's forces when embarked on board any ship commissioned by Her Majesty, and the auxiliary forces shall be deemed to be part of Her Majesty's forces within the meaning of that Act.

Definitions.

Definitions.

187. [*Omitted as not applying to India.*]

Application

188. Where a person subject to military law is on board a ship, this Act

shall apply until he arrives at the port of disembarkation in like manner as if he and the officers in command of him were on land at the place at which he embarked on board the said ship, subject to this proviso, that, if he is tried and sentenced while so on board ship, any finding and sentence, so far as not confirmed and executed on board ship, may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.

Definitions. Application of Act to ships.

189. (1.) In this Act, if not inconsistent with the context, the expression "on active service" as applied to a person subject to military law means whenever he is attached to or forms part of a force which is engaged in operations against the enemy or is engaged in military operations in a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country.

Interpretation of term "active service."

(2.) Where the Governor of a colony in which any of Her Majesty's forces are serving, or if the forces are serving out of Her Majesty's dominions, the general officer commanding such forces, declares at any time or times that, by reason of the imminence of active service or of the recent existence of active service, it is necessary for the public service that the forces in the colony or under his command, as the case may be, should be temporarily subject to this Act, as if they were on active service, then, on the publication in general orders of any such declaration, the forces to which the declaration applies shall be deemed to be on active service for the period mentioned in the declaration, so that the period mentioned in any one declaration do not exceed three months from the date thereof.

(3.) If at any time during the said period the governor or general officer for the time being is of opinion that the necessity continues he may from time to time renew such declaration for another period not exceeding three months, and such renewal shall be published and have effect as the original declaration, and if he is of opinion that the said necessity has ceased, he shall state such opinion, and on the publication in general orders of such statement, the forces to which the declaration applies shall cease to be deemed to be on active service.

(4.) Every such declaration, renewal of declaration, and statement by the governor of a colony shall be made by proclamation published in the official gazette of the colony, and it shall be the duty of every governor or general officer making a declaration or renewal of a declaration under this section, if he has the means of direct telegraphic communication with a Secretary of State, to obtain the previous consent of the Secretary of State to such declaration or renewal, and in any other case to report the same with the utmost practicable speed to the Secretary of State.

(5.) The Secretary of State may, if he thinks fit, annul a declaration or

Definitions. renewal purporting to be made in pursuance of this section, without prejudice to anything done by virtue thereof before the date at which the annulment takes effect, and until that date any such declaration or renewal shall be deemed to have been duly made in accordance with this section, and shall have full effect.

Interpretation of terms.

190. In this Act, if not inconsistent with the context, the following expressions have the meanings hereinafter respectively assigned to them; that is to say,

(1) the expression "Secretary of State" means one of Her Majesty's Principal Secretaries of State:

(2) the expression "Lord Lieutenant of Ireland" includes the lords justices or other chief governor or governors of Ireland:

(3) the expression "Commander-in-Chief" means the field-martial or other officer commanding in chief Her Majesty's forces for the time being:

(4) the expression "officer" means an officer commissioned or in pay as an officer in Her Majesty's forces, or any arm, branch, or part thereof; it also includes a person who, by virtue of his commission, is appointed to any department or corps of Her Majesty's forces, or of any arm, branch, or part thereof; it also includes a person, whether retired or not, who, by virtue of his commission or otherwise, is legally entitled to the style and rank of an officer of Her Majesty's said forces, or of any arm, branch, or part thereof:

warrant and other officers holding honorary commissions are officers within the meaning of this Act, subject to the exceptions in this Act mentioned:

(5) the expression "non-commissioned officer" includes an acting non-commissioned officer, and includes an army schoolmaster when not a warrant officer, but save as is in this Act mentioned does not include a warrant officer not holding an honorary commission:

(6) the expression "soldier" does not include an officer as defined by this Act, but, with the modifications in this Act contained in relation to warrant officers and non-commissioned officers, does include a warrant officer not having an honorary commission and a non-commissioned officer, and every person subject to military law during the time that he is so subject:

(7) the expression "superior officer" when used in relation to a soldier, includes a warrant officer not holding an honorary commission, and also includes a non-commissioned officer as above defined:

(8) the expressions "regular forces" and "Her Majesty's regular forces"

mean officers and soldiers who by their commission, terms of enlistment, or otherwise, are liable to render continuously for a term military service to Her Majesty in any part of the world, including, subject to the modifications in this Act mentioned, the Royal Marines and Her Majesty's Indian forces, and the Royal Malta Fencible Artillery, and subject to this qualification that when the reserve forces are subject to military law such forces become during the period of their being so subject part of the regular forces: *Definitions.*

(9) the expression "reserve forces" means the army reserve force and the militia reserve force:

(10) the expression "the army reserve force" means the reserve force established under the Reserve Force Act, 1867, and any Act amending the same: 30 & 31 Vict. c. 110.

(11) the expression "the militia reserve force" means the men enlisted from time to time under the Militia Reserve Act, 1867, and any Act amending the same: 30 & 31 Vict. c. 111.

(12) the expression "auxiliary forces" means the militia, the yeomanry, and the volunteers:

(13) the expression "militia" includes the general and the local militia:

(14) the expression "volunteers and volunteer forces" includes the Honourable Artillery Company of London:

(15) the expression "corps"—

(*a*) in the case of Her Majesty's regular forces—

(i) means any such military body, whether known as a territorial regiment or by any different name, as may be from time to time declared by Royal warrant to be a corps for the purpose of this Act, and is a body formed by Her Majesty, and either consisting of associated battalions of the regular and auxiliary forces, or consisting wholly of a battalion or battalions of the regular forces, and in either case with or without the whole or any part of the permanent staff of any of the auxiliary forces not included in such military body; and

(ii) means the Royal Marine forces, in this Act referred to as the Royal Marines; and also

(iii) means the Army Service Corps, the Army Hospital Corps, and any other portion of Her Majesty's regular forces, by whatever name called, which is declared by Royal warrant to be a corps for the purposes of this Act; and also

(iv) means any other portion of Her Majesty's regular forces em-

Definitions.

ployed on any service and not attached to any corps as above defined;

(v) and any reference in Part II. of this Act to a corps of the regular forces shall be deemed to refer to any such military body as is herein-before defined to form a corps; and

(*b*) in the case of Her Majesty's auxiliary forces—

(i) means any such military body, whether known as a territorial regiment or by any different name, as may be from time to time declared by Royal warrant to be a corps for the purposes of this Act, and is a body formed by Her Majesty, and either consisting of associated battalions of the regular and auxiliary forces, or consisting wholly of a battalion or battalions of the auxiliary forces, and either inclusive or exclusive of the whole or any part of the permanent staff of any part of the auxiliary forces; and

(ii) means any other portion of Her Majesty's auxiliary forces employed in any service, and not attached to any corps as above defined:

(16) the expression "battalion" in the application of this Act to cavalry, artillery, or engineers shall be construed to mean regiment, brigade, or other body into which Her Majesty may have been pleased to divide such cavalry, artillery or engineers:

(17) the expression "regimental" means connected with a corps, or with any battalion or other subdivision of a corps:

(18) the expression "military decoration" means any medal, clasp, good-conduct badge, or decoration:

(19) the expression "military reward" means any gratuity or annuity for long service or good conduct; it also includes any good-conduct pay or pension and any other military pecuniary reward:

(20) the expression "enemy" includes all armed mutineers, armed rebels, armed rioters, and pirates:

(21) the expression "India" means any territories the government of which is vested in Her Majesty by or in pursuance of the Act of the session of the twenty-first and twenty-second years of the reign of Her present Majesty, chapter one hundred and six, intituled "An Act for the better government of India," and the Acts amending the same, and also any territories in India under the dominion of any native prince or princes:

(22) the expression "native of India" means a person triable and punishable under Indian military law as defined by this Act:

Definitions.

(23) the expression "colony" means for the purposes of this Act Cyprus and any part of Her Majesty's dominions, exclusive of the United Kingdom, the Channel Islands, and the Isle of Man, and India, and all territories and places being part of Her Majesty's dominions which are under one legislature shall be deemed for the purposes of this Act to constitute one colony; and where there are local legislatures as well as a central legislature, the expression "legislature" means the central legislature only:

(24) the expression "foreign country" means any place which is not situate in the United Kingdom, a colony, or India, as above defined and is not on the high seas:

(25) the expression "beyond the seas" means out of the United Kingdom, the Channel Islands, and Isle of Man; and the expression "station beyond the seas" includes any place where any of Her Majesty's forces are serving out of the United Hingdom, the Channel Islands, and Isle of Man:

(26) the expression "governor-general" in its application to India means the Governor-General of India in Council:

(27) the expression "governor" as respects "the presidency of Bengal" means the Governor-General of India in Council, and as respects the presidencies of Madras and Bombay means the Governor in Council of the presidency, and in its application to a colony includes the lieutenant-governor or other officer administering the government of the colony:

(28) the expression "oath" and "swear," and other expressions relating thereto, include affirmation or declaration, affirm or declare, and expressions relating thereto, in cases where an affirmation or declaration is by law allowed instead of an oath:

(29) the expression "superior court," in the United Kingdom, means Her Majesty's High Court of Justice in England, the Court of Session in Scotland, and Her Majesty's High Court of Justice at Dublin:

(30) the expression "supreme court" means, as regards India, any high court or any chief court; and the expression "court of superior jurisdiction," as regards a colony, means a court exercising in that colony the like authority as the High Court of Justice in England:

(31) the expression "civil court" means, with respect to any crime or offence, a court of ordinary criminal jurisdiction, and includes a court of summary jurisdiction:

Definitions.

(32) the expression "prescribed" means prescribed by any rules of procedure made in pursuance of this Act:

(33) the expression "misdemeanor," as far as regards Scotland, means a crime or offence, and so far as regards India, means a crime punishable by fine and rigorous or simple imprisonment at the discretion of the court:

"Summary Jurisdiction Acts."
42 & 43 Vict. c. 49.
27 & 28 Vict. c. 53.

(34) the expression "Summary Jurisdiction Acts"—

(*a*) as regards England, has the same meaning as in the Summary Jurisdiction Act, 1879;

(*b*) as regards Scotland, means the Summary Procedure Act, 1864, and any Acts amending the same; and

(*c*) as regards Ireland, means within the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, or of the police of such district; and elsewhere in Ireland, the Petty Sessions (Ireland) Act, 1851, and any Act amending the same:

14 & 15 Vict. c. 93.

"Court of summary jurisdiction."

(35) the expression "court of summary jurisdiction"—

(*a*) as regards England, has the same meaning as in the Summary Jurisdiction Acts, 1879; and

(*b*) as regards Ireland, means any justice or justices of the peace, police magistrate, stipendiary or other magistrate, or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts or any Acts therein referred to; and

(*c*) as regards Scotland, means the sheriff or sheriff substitute, or any two justices of the peace sitting in open court; or any magistrate or magistrates to whom jurisdiction is given by the Summary Procedure (Scotland) Act, 1864; and

27 & 28 Vict. c. 53.

(*d*) as regards India, a colony, the Channel Islands and Isle of Man, means the court, justices, or magistrates who exercise jurisdiction in the like cases to those in which the Summary Jurisdiction Acts are applicable:

(36) the expression "court of law" includes a court of summary jurisdiction:

(37) the expression "county court judge" includes—

(*a*) in the case of Scotland, the sheriff or sheriff substitute; and

(*b*) in the case of Ireland, the judge of the Civil Bill Court:

(38) the expression "constable" includes a high constable and a commissioner, inspector, or other officer of police:

(39) the expression "police authority" means the commissioner, com-

missioners, justices, watch committee, or other authority having the control of a police force:

(40) the expression "horse" includes a mule, and the provisions of this Act shall apply to any beast of whatever description, used for burden or draught or for carrying persons in like manner as if such beast were included in the expression "horse."

PART VI.

COMMENCEMENT AND APPLICATION OF ACT AND REPEAL.

Commencement and duration of Act. 44 & 45 Vict. c. 57. 42 & 43 Vict. c. 33. 44 & 45 Vict. c. 9.

191. (1.) THIS Act shall come into force in every place on the day fixed for the commencement in that place of the Regulation of the Forces Act, 1881, and shall continue in force as if a reference to this Act were substituted for the reference to the Army Discipline and Regulation Act, 1879, in the Army Discipline and Regulation (Annual) Act, 1881, and that Act shall be construed accordingly.

(2.) Any warrant, order, rule, or regulation under this Act, may be made at any time after the passing thereof, so that the same do not take effect until the commencement thereof.

(3.) Any reference in any Act, regulation, rule, order, warrant, charge, or document, to the Army Discipline and Regulation Act, 1879, or any enactment repealed by this Act, shall be construed to refer to this Act and to the corresponding enactment of this Act.

Application of Act.

192. THIS Act, while in force, shall apply to all soldiers, whether enlisted before or after the commencement of this Act, in like manner as if they were enlisted under this Act, subject as follows:

(1.) A soldier enlisted before the commencement of this Act may, when on service beyond the seas, be detained in army service after the time at which he would otherwise be entitled to be transferred to the reserve by the same authority and for the same period by and for which he may be detained under this Act while a state of war exsists.

(2.) In the case of soldiers enlisted or re-engaged before the commencement of the Army Discipline and Regulation Act, 1879, who have not consented to the application to them of the provisions of Part Two of that Act, Part Two of this Act shall nevertheless, so far as is consistent with the tenor thereof, apply to such soldiers (in this sec-

tion referred to as old soldiers) but subject to the exceptions provided by this section.

(3.) The following provisions, namely,—

(*a*) the whole of section seventy-nine (which section relates to reckoning and forfeiture of service);

(*b*) so much of section eighty-seven as allows a soldier to be detained in service otherwise than while a state of war exists or while he is on service beyond the seas;

(*c*) so much of section eighty-eight as relates to any person continuing in army service for a period during which his service may be prolonged; and

(*d*) the whole of section eighty-nine (which section relates to the power to transfer a soldier to the reserve before the expiration of his term of army service),

shall not apply without his consent to any such old soldier.

(4.) Any re-engagement entered into by a soldier at any time since the commencement of the Army Discipline and Regulation Act, 1879, shall be deemed to be a consent by him to the application to him of the above-named provisions; and any old soldier who, after the commencement of this Act, extends his army service for all or any part of the residue of the unexpired term of his original enlistment, or gives notice to his commanding officer of his desire to continue in Her Majesty's service, shall be deemed to have consented to the application to him of the above-named provisions.

(5.) For the purpose of discharge or of transfer to the reserve, the service of any old soldier, to whom section seventy-nine of this Act does not apply, shall be reckoned in accordance with the enactments in accordance with which it would have been reckoned if the Army Acts, 1879 and 1881, and this Act had not passed:

Provided that such service may with the consent of the soldier and the approval of the competent military authority, as defined by Part Two of this Act be reckoned from the date of his attestation without any deduction on account of age, imprisonment, desertion, absence without leave, or otherwise, or without deduction on account of any one or more of such matters.

(6.) Any old soldier shall not be liable to be detained in service, or have his service prolonged without his consent, further or otherwise than he would have been liable to if the Regulation of the Forces Act, 1881, and this Act had not passed.

(7.) Nothing in sub-sections four and five of section eighty-three of this

Act, shall extend without his consent to any soldier who enlisted on or after the twentieth day of June one thousand eight hundred and sixty-seven, and before the ninth day of August one thousand eight hundred and seventy, and who has not re-engaged.

(8.) Where a man was enlisted before the commencement of this Act, nothing in this Act shall require him, without his consent, to serve in or to be appointed, transferred, posted, or attached to any military body otherwise than he might have been if this Act had not passed, or to serve for any longer period than that for which he was, before the commencement of this Act, liable to serve.

Repeal.

193. THE Acts specified in the Fifth Schedule to this Act are hereby repealed as from the commencement of that Act to the extent in the third column of that schedule mentioned.

Provided that —

(*a.*) The said repeal shall not affect anything done or suffered, or any rights or liabilities acquired or accrued before the commencement of this Act, and any proceedings for carrying into effect anything commenced or done before the commencement of this Act may be carried on and completed as if this Act had not passed.

(*b.*) All rules, regulations, warrants, orders, and documents made or issued in pursuance or for the purposes of the Acts repealed shall continue as if made or issued in pursuance or for the purposes of this Act.

(*c.*) Where in any place before the commencement of this Act, a court-martial has been convened for the trial of an offender such trial may be carried on, and the offender may be sentenced and punished, in the same manner in all respects as if this Act had not passed.

(*d.*) Subject as aforesaid, every offence committed against the Army Discipline and Regulation Act, 1879, may be tried and punished in like manner as if it had been committed against this Act; so, however, that a person shall not be subject to any greater punishment for such offence than he is subject to before the commencement of this Act.

(*e.*) Subject as aforesaid, this Act shall apply to the conviction of a person tried under any Act hereby repealed as if he had been convicted under this Act, and every sentence imposed under any Act hereby repealed may, after the commencement of this Act, be carried into effect in the same manner in all respects as if it had been imposed under this Act.

(*f.*) So much of the Army Discipline and Regulation Act, 1879, as is unrepealed, shall continue in force and be construed as if it were part of this Act.

FIRST SCHEDULE.

Form of Oath to be taken by a Master whose Apprentice has absconded, and of Justice's Certificate annexed.

I, *A. B.*, of do make oath, that I am by trade a and that was bound to serve as an apprentice to me in the said trade, by indenture dated the day of for the term of years; and that the said did on or about the day of abscond and quit my service without my consent; and that to the best of my knowledge and belief the said is aged about years. Witness my hand at the day of one thousand eight hundred and

(Signed) *A. B.*

I hereby certify that the foregoing affidavit was sworn before me at this day of one thousand eight hundred and .

(Signed) *C. D.*,
Justice of the Peace
for

Form of Oath to be taken by a Master whose indentured Labourer in India or a Colony has absconded, and of Justice's Certificate annexed.

I of do make oath, that was bound to me to serve as an indentured labourer by indenture dated the day of for the term of years, and that the said did on or about the day of abscond and quit my service without my consent. Witness my hand at the day of one thousand eight hundred and .

(Signed) *A. B.*

I hereby certify, &c. [*as for apprentice*].

SECOND SCHEDULE
THIRD SCHEDULE } [*Omitted as not applying to India.*]

FOURTH SCHEDULE.

Form of Descriptive Return.

Descriptive Return of who* at
on the day of , and was committed to confinement at on the day of
as a deserter [*or* absentee without leave] from the Bn. of the Regiment of

* After the word "who," to be inserted either the words "was apprehended," or "surrendered himself," as the case may be.

Age		
Height	Feet.	Inches.
Complexion		
Hair		
Eyes		
Marks		
In uniform or plain clothes		
Probable date and place of attestation		
Probable date of desertion or beginning of absence, and from what place.		
Name, occupation, and address of the person by whom or through whose means the deserter [*or* absentee without leave] was apprehended and secured.†		
Particulars in the evidence on which the prisoner is committed, and showing whether he surrendered or was apprehended, and in what manner and upon what grounds. The fullest possible details to be given.		

† It is important for the public service, and for the interest of the deserter or absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the justice in his own handwriting, or, under his direction, by his clerk.

I do hereby certify, that the prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he *

the before-mentioned corps, and I recommend † for a reward of *s.*

_____ *Signature* } *of committing magistrate.*
_____ *Residence*
_____ *Post Town*
_____ *Signature of prisoner.*
_____ *Signature of informant.*

Or where the prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming :

I hereby certify that the above-named prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the day of for the purpose of obtaining such evidence from a Secretary of State.

_____ *Signature.*
Residence.
_____ *Post Town.*

LIBRARY OF THE BOMBAY BRANCH OF THE ROYAL ASIATIC SOCIETY

FIFTH SCHEDULE.

ACTS REPEALED.

Section and Chapter.	Title or Short Title.	Extent of Repeal.
47 Geo. 3. sess. 2. c. 25.	An Act for the more convenient payment of half pay and pensions and other allowances to officers and widows of officers, and the persons upon the Compassionate List.	So much as is unrepealed.
42 & 43 Vict. c. 32 ...	The Army Discipline and Regulation (Commencement) Act, 1879.	Section three, section seven, section eight and the schedule.
42 & 43 Vict. c. 33 ...	The Army Discipline and Regulation Act, 1879.	The whole Act, with the exception of section one hundred and seventy-seven.
44 & 45 Vict. c. 9 ...	The Army Discipline and Regulation (Annual) Act, 1881.	Sections four to seven, both inclusive.
44 & 45 Vict. c. 57 ...	The Regulation of the Forces Act, 1881.	Part II., with the exception of so much of sections thirty-eight and thirty-nine as relates to the auxiliary forces, and of section forty-five. In Part III. section fifty.

* Insert *is* or *is not a deserter or absentee without leave,* from or belongs or does not belong to, as the case may be.

† The justice will insert the name of the person to whom the reward is due, and the amount [5*s.*, 10*s.*, 15*s.*, or 20*s.*,] which, in his opinion, should be granted in this particular case .

44 & 45 VICTORIA. A. D. 1881.

CHAPTER LXIII.

An Act for providing a Superannuation Allowance for the Auditor of the Accounts of the Secretary of State for India in Council and his Assistants.

[*27th August 1881.*]

WHEREAS by section fifty-two of an Act of the session held in the twenty-first and twenty-second years of Her Majesty, chapter one hundred and six, "for the better government of India," (herein-after referred to as the Act of 1858,) provision is made for the appointment, and for the payment out of the revenues of India, of an auditor of the accounts of the Secretary of State for India in Council and his assistants:

And whereas by section eighteen of the same Act provision is made for granting superannuation allowances to Secretaries, officers, and servants on the establishment of the Secretary of State for India in Council, but the auditor and his assistants are not persons on that establishment, and no provision is made by the Act of 1858 or any other Act for granting superannuation allowances to them, and it is expedient that the law be in this respect amended:

And whereas the existing auditor was appointed to his present office on his resigning a situation in the permanent Civil Service entitling him to superannuation allowance under the Superannuation Act, 1859, and doubts have been entertained whether under these circumstances he has been transferred from his previous employment to his present office within the meaning of the Act twenty-three and twenty-four Victoria, chapter eighty-nine, and it is expedient that such doubts be removed: 22 Vict. c. 26.

And whereas some of the assistants of the existing auditor have been appointed without having obtained the requisite certificates from the Civil Service Commissioners, such certificates not having been required by law as a condition of their appointment, and their right to a superannuation allowance ought not to be prejudiced by this circumstance:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Pension rights of India Office auditor.

1. THE auditor of the accounts of the Secretary of State for India in Council and his assistants, including the persons who hold those offices at the time of the passing of this Act, notwithstanding that some of such last-mentioned persons have not obtained certificates from the Civil Service Commissioners, shall, for the purposes of superannuation allowance, be in the same

position as if they were secretaries, officers, or servants appointed on the establishment of the Secretary of State for India in Council under section sixteen of the Act of 1858; and for the above purposes the existing auditor shall be deemed to have been transferred to his present office from the employment previously held by him.

Short title.

2. This Act may be cited as the India Office Auditor Act, 1881.

Fugitive Offenders Act, 1881.

[44 & 45 Vict. Ch. 69.]

ARRANGEMENT OF SECTIONS.

Section.

1. Short title.

PART I.

Return of Fugitives.

2. Liability of fugitive to be apprehended and returned.
3. Endorsing of warrant for apprehension of fugitive.
4. Provisional warrant for apprehension of fugitive.
5. Dealing with fugitive when apprehended.
6. Return of fugitive by warrant.
7. Discharge of person apprehended if not returned within one month.
8. Sending back of persons apprehended if not prosecuted within six months or acquitted.
9. Offences to which this part of this Act applies.
10. Powers of superior court to discharge fugitive when case frivolous or return unjust.
11. Power of Lord Lieutenant in Ireland.

PART II.

Inter-colonial Backing of Warrants, and Offences.

Application of part of Act.

12. Application of part of Act to group of British possessions.

Backing of Warrants.

13. Backing in one British possession of warrant issued in another of same group.
14. Return of prisoner apprehended under backed warrant.

SECTION.

15. Backing in one British possession of summons, &c. of witnesses issued in another possession of same group.
16. Provisional warrant in group of British possessions.
17. Discharge of prisoner not returned within one month to British possession of same group.
18. Sending back of prisoner not prosecuted or acquitted to British possession of same group.
19. Refusal to return prisoner where offence too trivial.

PART III.

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44 & 45 VICTORIA. A. D. 1881.

CHAPTER LXIX.

An Act to amend the Law with respect to Fugitive Offenders in Her Majesty's Dominions, and for other Purposes connected with the Trial of Offenders.

[*27th August 1881.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Short title.

1. THIS Act may be cited as the Fugitive Offenders Act, 1881.

PART I.

RETURN OF FUGITIVES.

Liability of fugitive to be apprehended and returned.

2. WHERE a person accused of having committed an offence (to which this part of this Act applies) in one part of Her Majesty's dominions has left that part, such person (in this Act referred to as a fugitive from that part) if found in another part of Her Majesty's dominions, shall be liable to be apprehended and returned in manner provided by this Act to the part from which he is a fugitive.

A fugitive may be so apprehended under an endorsed warrant or a provisional warrant.

Endorsing of warrant for apprehension of fugitive.

3. WHERE a warrant has been issued in one part of Her Majesty's dominions for the apprehension of a fugitive from that part, any of the following authorities in another part of Her Majesty's dominions in or on the way to which the fugitive is or is suspected to be; (that is to say,)

(1) a judge of a superior court in such part; and

(2) in the United Kingdom a Secretary of State and one of the magistrates of the metropolitan police court in Bow Street; and

(3) in a British possession the governor of that possession,

if satisfied that the warrant was issued by some person having lawful authority to issue the same, may endorse such warrant in manner provided by this Act, and the warrant so endorsed shall be a sufficient authority to apprehend the fugitive in the part of Her Majesty's dominions in which it is endorsed, and bring him before a magistrate.

Provisional warrant for apprehension of fugitive.

4. A MAGISTRATE of any part of Her Majesty's dominions may issue a provisional warrant for the apprehension of a fugitive who is or is suspected of being in or on his way to that part on such information, and under such circumstances, as would in his opinion justify the issue of a warrant if the offence of which the fugitive is accused had been committed within his jurisdiction, and such warrant may be backed and executed accordingly.

A magistrate issuing a provisional warrant shall forthwith send a report of the issue, together with the information or a certified copy thereof, if he is in the United Kingdom, to a Secretary of State, and if he is in a British possession, to the governor of that possession, and the Secretary of State or governor may, if he think fit, discharge the person apprehended under such warrant.

Dealing with fugitive when apprehended.

5. A FUGITIVE when apprehended shall be brought before a magistrate, who (subject to the provisions of this Act) shall hear the case in the same manner and have the same jurisdiction and powers, as near as may be (including the power to remand and admit to bail), as if the fugitive were charged with an offence committed within his jurisdiction.

If the endorsed warrant for the apprehension of the fugitive is duly authenticated, and such evidence is produced as (subject to the provisions of this Act) according to the law ordinarily administered by the magistrate, raises a strong or probable presumption that the fugitive committed the offence mentioned in the warrant, and that the offence is one to which this part of this Act applies, the magistrate shall commit the fugitive to prison to await his return, and shall forthwith send a certificate of the committal and such report of the case as he may think fit, if in the United Kingdom to a Secretary of State, and if in a British possession to the governor of that possession.

Where the magistrate commits the fugitive to prison he shall inform the fugitive that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of habeas corpus, or other like process.

A fugitive apprehended on a provisional warrant may be from time to time remanded for such reasonable time not exceeding seven days at any one

time, as under the circumstances seems requisite for the production of an endorsed warrant.

Return of fugitive by warrant.

6. UPON the expiration of fifteen days after a fugitive has been committed to prison to await his return, or if a writ of habeas corpus or other like process is issued with reference to such fugitive by a superior court, after the final decision of the court in the case,

(1) if the fugitive is so committed in the United Kingdom, a Secretary of State; and

(2) if the fugitive is so committed in a British possession, the governor of that possession,

may, if he thinks it just, by warrant under his hand order that fugitive to be returned to the part of Her Majesty's dominions from which he is a fugitive, and for that purpose to be delivered into the custody of the persons to whom the warrant is addressed, or some one or more of them, and to be held in custody, and conveyed by sea or otherwise to the said part of Her Majesty's dominions, to be dealt with there in due course of law as if he had been there apprehended, and such warrant shall be forthwith executed according to the tenor thereof.

The governor or other chief officer of any prison, on request of any person having the custody of a fugitive under any such warrant, and on payment or tender of a reasonable amount for expenses, shall receive such fugitive and detain him for such reasonable time as may be requested by the said person for the purpose of the proper execution of the warrant.

Discharge of person apprehended if not returned within one month.

7. IF a fugitive who, in pursuance of this part of this Act, has been committed to prison in any part of Her Majesty's dominions to await his return, is not conveyed out of that part within one month after such committal, a superior court, upon application by or on behalf of the fugitive, and upon proof that reasonable notice of the intention to make such application has been given, if the said part is the United Kingdom to a Secretary of State, and if the said part is a British possession to the governor of the possession, may, unless sufficient cause is shown to the contrary, order the fugitive to be discharged out of custody.

Sending back of persons apprehended if not prosecuted within six months or acquitted.

8. WHERE a person accused of an offence and returned in pursuance of this part of this Act to any part of Her Majesty's dominions, either is not prosecuted for the said offence within six months after his arrival in that part, or is acquitted of the said offence, then if that part is the United Kingdom a Secretary of State, and if that part is a British possession the governor of that possession, may, if he think fit, on the request of such person, cause him to be sent back free of cost and with as little delay as possible to the part of Her Majesty's dominions in or on his way to which he was apprehended.

Offences to which this part of this Act applies.

9. THIS part of this Act shall apply to the following offences, namely, to treason and piracy, and to every offence, whether called felony, misdemeanor, crime, or by any other name, which is for the time being punishable in the part of Her Majesty's dominions in which it was committed, either on indictment or information, by imprisonment with hard labour for a term of twelve months or more, or by any greater punishment; and for the purposes of this section, rigorous imprisonment, and any confinement in a prison combined with labour, by whatever name it is called, shall be deemed to be imprisonment with hard labour.

This part of this Act shall apply to an offence notwithstanding that by the law of the part of Her Majesty's dominions in or on his way to which the fugitive is or is suspected of being it is not an offence, or not an offence to which this part of this Act applies; and all the provisions of this part of this Act, including those relating to a provisional warrant and to a committal to prison, shall be construed as if the offence were in such last-mentioned part of Her Majesty's dominions an offence to which this part of this Act applies.

Powers of superior court to discharge fugitive when case frivolous or return unjust.

10. WHERE it is made to appear to a superior court that by reason of the trivial nature of the case, or by reason of the application for the return of a fugitive not being made in good faith in the interests of justice or otherwise, it would, having regard to the distance, to the facilities for communication, and to all the circumstances of the case, be unjust or oppressive or too severe a punishment to return the fugitive either at all or until the expiration of a certain period, such court may discharge the fugitive, either absolutely or on bail, or order that he shall not be returned until after the expiration of the period named in the order, or may make such other order in the premises as to the court seems just.

Power of Lord Lieutenant in Ireland.

11. IN Ireland the Lord Lieutenant or Lords Justices or other chief governor or governors of Ireland, also the chief secretary of such Lord Lieutenant, may, as well as a Secretary of State, execute any portion of the powers by this part of this Act vested in a Secretary of State.

PART II.

INTER-COLONIAL BACKING OF WARRANTS, AND OFFENCES.

Application of part of Act.

Application of part of Act to group of British possessions.

12. THIS part of this Act shall apply only to those groups of British possessions to which, by reason of their contiguity or otherwise, it may seem expedient to Her Majesty to apply the same.

It shall be lawful for Her Majesty from time to time by Order in Council to

direct that this part of this Act shall apply to the group of British possessions mentioned in the Order, and by the same or any subsequent Order to except certain offences from the application of this part of this Act, and to limit the application of this part of this Act by such conditions, exceptions, and qualifications as may be deemed expedient.

Backing of Warrants.

Backing in one British possession of warrant issued in another of same group.

13. WHERE in a British possession of a group to which this part of this Act applies a warrant has been issued for the apprehension of a person accused of an offence punishable by law in that possession, and such person is or is suspected of being in or on the way to another British possession of the same group, a magistrate in the last-mentioned possession, if satisfied that the warrant was issued by a person having lawful authority to issue the same, may endorse such warrant in manner provided by this Act, and the warrant so endorsed shall be a sufficient authority to apprehend, within the jurisdiction of the endorsing magistrate, the person named in the warrant, and bring him before the endorsing magistrate or some other magistrate in the same British possession.

Return of prisoner apprehended under backed warrant.

14. THE magistrate before whom a person so apprehended is brought, if he is satisfied that the warrant is duly authenticated as directed by this Act and was issued by a person having lawful authority to issue the same, and is satisfied on oath that the prisoner is the person named or otherwise described in the warrant, may order such prisoner to be returned to the British possession in which the warrant was issued, and for that purpose to be delivered into the custody of the persons to whom the warrant is addressed, or any one or more of them, and to be held in custody and conveyed by sea or otherwise into the British possession in which the warrant was issued, there to be dealt with according to law as if he had been there apprehended. Such order for return may be made by warrant under the hand of the magistrate making it, and may be executed according to the tenor thereof.

A magistrate shall, so far as is requisite for the exercise of the powers of this section, have the same power, including the power to remand and admit to bail a prisoner, as he has in the case of a person apprehended under a warrant issued by him.

Backing in one British possession of summons, &c. of witness issued in another possession of same group.

15. WHERE a person required to give evidence on behalf of the prosecutor or defendant on a charge for an offence punishable by law in a British possession of a group to which this part of this Act applies, is or is suspected of being in or on his way to any other British possession of the same group, a judge, magistrate, or other officer who would have lawful authority to issue a summons, requiring the attendance of such witness, if the witness were within his jurisdiction, may issue a summons for the attendance of such witness,

and a magistrate in any other British possession of the same group, if satisfied that the summons was issued by some judge, magistrate, or officer having lawful authority as aforesaid, may endorse the summons with his name; and the witness, on service in that possession of the summons, so endorsed, and on payment or tender of a reasonable amount for his expenses, shall obey the summons, and in default shall be liable to be tried and punished either in the possession in which he is served or in the possession in which the summons was issued, and shall be liable to the punishment imposed by the law of the possession in which he is tried for the failure of a witness to obey such a summons. The expression "summons" in this section includes any subpœna or other process for requiring the attendance of a witness.

Provisional warrant in group of British possessions.

16. A MAGISTRATE in a British possession of a group to which this part of this Act applies, before the endorsement in pursuance of this part of this Act of a warrant for the apprehension of any person, may issue a provisional warrant for the apprehension of that person, on such information and under such circumstances as would in his opinion justify the issue of a warrant if the offence of which such person is accused were an offence punishable by the law of the said possession, and had been committed within his jurisdiction, and such warrant may be backed and executed accordingly; provided that a person arrested under such provisional warrant shall be discharged unless the original warrant is produced and endorsed within such reasonable time as may under the circumstances seem requisite.

Discharge of prisoner not returned within one month to British possession of same group.

17. IF a prisoner in a British possession whose return is authorised in pursuance of this part of this Act is not conveyed out of that possession within one month after the date of the warrant ordering his return, a magistrate or a superior court, upon application by or on behalf of the prisoner, and upon proof that reasonable notice of the intention to make such application has been given to the person holding the warrant and to the chief officer of the police of such possession or of the province or town where the prisoner is in custody, may, unless sufficient cause is shown to the contrary, order such prisoner to be discharged out of custody.

Any order or refusal to make an order of discharge by a magistrate under this section shall be subject to appeal to a superior court.

Sending back of prisoner not prosecuted or acquitted to British possession of same group.

18. WHERE a prisoner accused of an offence is returned in pursuance of this part of this Act to a British possession, and either is not prosecuted for the said offence within six months after his arrival in that possession or is acquitted of the said offence, the governor of that possession, if he thinks fit, may, on the requisition of such person, cause him to be sent back, free of cost, and with as little delay as possible, to the British possession in or on his way to which he was apprehended.

Refusal to return prisoner where offence too trivial.

19. WHERE the return of a prisoner is sought or ordered under this part of this Act, and it is made to appear to a magistrate or to a superior court that by reason of the trivial nature of the case, or by reason of the application for the return of such prisoner not being made in good faith in the interests of justice or otherwise, it would, having regard to the distance, to the facilities of communication, and to all the circumstances of the case, be unjust or oppressive, or too severe a punishment, to return the prisoner either at all or until the expiration of a certain period, the court or magistrate may discharge the prisoner either absolutely or on bail, or order that he shall not be returned until after the expiration of the period named in the order, or may make such other order in the premises as to the magistrate or court seems just.

Any order or refusal to make an order of discharge by a magistrate under this section shall be subject to an appeal to a superior court.

PART III.

Trial, &c. of Offences.

Offences committed on boundary of two adjoining British possessions.

20. WHERE two British possessions adjoin, a person accused of an offence committed on or within the distance of five hundred yards from the common boundary of such possessions may be apprehended, tried, and punished in either of such possessions.

Offences committed on journey between two British possessions.

21. WHERE an offence is committed on any person or in respect of any property in or upon any carriage, cart, or vehicle whatsoever employed in a journey, or on board any vessel whatsoever employed in a navigable river, lake, canal, or inland navigation, the person accused of such offence may be tried in any British possession through a part of which such carriage, cart, vehicle, or vessel passed in the course of the journey or voyage during which the offence was committed; and where the side, bank, centre, or other part of the road, river, lake, canal, or inland navigation along which the carriage, cart, vehicle, or vessel passed in the course of such journey or voyage is the boundary of any British possession, a person may be tried for such offence in any British possession of which it is the boundary:

Provided that nothing in this section shall authorise the trial for such offence of a person who is not a British subject, where it is not shown that the offence was committed in a British possession.

Trial of offence of false swearing or giving false evidence.

22. A PERSON accused of the offence (under whatever name it is known) of swearing or making any false deposition, or of giving or fabricating any false evidence, for the purposes of this Act, may be tried either in the part of Her Majesty's dominions in which such deposition or evidence is used, or

in the part in which the same was sworn, made, given, or fabricated, as the justice of the case may require.

Supplemental provision as to trial of person in any place.

23. WHERE any part of this Act provides for the place of trial of a person accused of an offence, that offence shall, for all purposes of and incidental to the apprehension, trial, and punishment of such person, and of and incidental to any proceedings and matters preliminary, incidental to, or consequential thereon, and of and incidental to the jurisdiction of any court, constable, or officer with reference to such offence, and to any person accused of such offence, be deemed to have been committed in any place in which the person accused of the offence can be tried for it, and such person may be punished in accordance with the Courts (Colonial) Jurisdiction Act, 1874.

37 & 38 Vict. c. 27.

Issue of search warrant.

24. WHERE a warrant for the apprehension of a person accused of an offence has been endorsed in pursuance of any part of this Act in any part of Her Majesty's dominions, or where any part of the Act provides for the place of trial of a person accused of an offence, every court and magistrate of the part in which the warrant is endorsed or the person accused of the offence can be tried shall have the same power of issuing a warrant to search for any property alleged to be stolen or to be otherwise unlawfully taken or obtained by such person, or otherwise to be the subject of such offence, as that court or magistrate would have if the property had been stolen or otherwise unlawfully taken or obtained, or the offence had been committed wholly within the jurisdiction of such court or magistrate.

Removal of prisoner by sea from one place to another.

25. WHERE a person is in legal custody in a British possession either in pursuance of this Act or otherwise, and such person is required to be removed in custody to another place in or belonging to the same British possession, such person, if removed by sea in a vessel belonging to Her Majesty or any of Her Majesty's subjects, shall be deemed to continue in legal custody until he reaches the place to which he is required to be removed; and the provisions of this Act with respect to the retaking of a prisoner who has escaped, and with respect to the trial and punishment of a person guilty of the offence of escaping or attempting to escape, or aiding or attempting to aid a prisoner to escape, shall apply to the case of a prisoner escaping while being lawfully removed as aforesaid, in like manner as if he were being removed in pursuance of a warrant endorsed in pursuance of this Act.

PART IV.

SUPPLEMENTAL.

Warrants and Escape.

Endorsement of warrant.

26. AN endorsement of a warrant in pursuance of this Act shall be signed

by the authority endorsing the same, and shall authorise all or any of the persons named in the endorsement, and of the persons to whom the warrant was originally directed, and also every constable, to execute the warrant within the part of Her Majesty's dominions or place within which such endorsement is by this Act made a sufficient authority, by apprehending the person named in it, and bringing him before some magistrate in the said part or place, whether the magistrate named in the endorsement or some other.

For the purposes of this Act every warrant, summons, subpœna, and process, and every endorsement made in pursuance of this Act thereon, shall remain in force, notwithstanding that the person signing the warrant or such endorsement dies or ceases to hold office.

Conveyance of fugitives and witnesses.

27. WHERE a fugitive or prisoner is authorised to be returned to any part of Her Majesty's dominions in pursuance of Part One or Part Two of this Act, such fugitive or prisoner may be sent thither in any ship belonging to Her Majesty or to any of her subjects.

For the purpose aforesaid, the authority signing the warrant for the return may order the master of any ship belonging to any subject of Her Majesty bound to the said part of Her Majesty's dominions to receive and afford a passage and subsistence during the voyage to such fugitive or prisoner, and to the person having him in custody, and to the witnesses, so that such master be not required to receive more than one fugitive or prisoner for every hundred tons of his ship's registered tonnage, or more than one witness for every fifty tons of such tonnage.

The said authority shall endorse or cause to be endorsed upon the agreement of the ship such particulars with respect to any fugitive prisoner or witness sent in her as the Board of Trade from time to time require.

Every such master shall, on his ship's arrival in the said part of Her Majesty's dominions, cause such fugitive or prisoner, if he is not in the custody of any person, to be given into the custody of some constable, there to be dealt with according to law.

Every master who fails on payment or tender of a reasonable amount for expenses to comply with an order made in pursuance of this section, or to cause a fugitive or prisoner committed to his charge to be given into custody as required by this section, shall be liable on summary conviction to a fine not exceeding fifty pounds, which may be recovered in any part of Her Majesty's dominions in like manner as a penalty of the same amount under the Merchant Shipping Act, 1854, and the Acts amending the same.

17 & 18 Vict. c. 104.

Escape of prisoner from custody.

28. IF a prisoner escape, by breach of prison or otherwise, out of the custody of a person acting under a warrant issued or endorsed in pursuance of this Act, he may be retaken in the same manner as a person accused of a crime against

the law of that part of Her Majesty's dominions to which he escapes may be retaken upon an escape.

A person guilty of the offence of escaping or of attempting to escape, or of aiding or attempting to aid a prisoner to escape, by breach of prison or otherwise, from custody under any warrant issued or endorsed in pursuance of this Act, may be tried in any of the following parts of Her Majesty's dominions, namely, the part to which and the part from which the prisoner is being removed, and the part in which the prisoner escapes, and the part in which the offender is found.

Evidence.

Depositions to be evidence, and authentication of depositions and warrants.

29. A MAGISTRATE may take depositions for the purposes of this Act in the absence of a person accused of an offence in like manner as he might take the same if such person were present and accused of the offence before him.

Depositions (whether taken in the absence of the fugitive or otherwise) and copies thereof, and official certificates of or judicial documents stating facts, may, if duly authenticated, be received in evidence in proceedings under this Act.

Provided that nothing in this Act shall authorise the reception of any such depositions, copies, certificates, or documents in evidence against a person upon his trial for an offence.

Warrants and depositions, and copies thereof, and official certificates of or judicial documents stating facts, shall be deemed duly authenticated for the purposes of this Act if they are authenticated in manner provided for the time being by law, or if they purport to be signed by or authenticated by the signature of a judge, magistrate, or officer of the part of Her Majesty's dominions in which the same are issued, taken, or made, and are authenticated either by the oath of some witness, or by being sealed with the official seal of a Secretary of State, or with the public seal of a British possession, or with the official seal of a governor of a British possession, or of a colonial secretary, or of some secretary or minister administering a department of the government of a British possession.

And all courts and magistrates shall take judicial notice of every such seal as is in this section mentioned, and shall admit in evidence without further proof the documents authenticated by it.

Miscellaneous.

Provision as to exercise of jurisdiction by magistrates.

30. THE jurisdiction under Part One of this Act to hear a case and commit a fugitive to prison to await his return shall be exercised,—

(1) in England, by a chief magistrate of the metropolitan police courts

or one of the other magistrates of the metropolitan police court at Bow Street; and

(2) in Scotland, by the sheriff or sheriff substitute of the county of Edinburgh; and

(3) in Ireland, by one of the police magistrates of the Dublin metropolitan police district; and

(4) in a British possession, by any judge, justice of the peace, or other officer having the like jurisdiction as one of the magistrates of the metropolitan police court in Bow Street, or by such other court, judge, or magistrate as may be from time to time provided by an Act or ordinance passed by the legislature of that possession.

If a fugitive is apprehended and brought before a magistrate who has no power to exercise the jurisdiction under this Act in respect of that fugitive, that magistrate shall order the fugitive to be brought before some magistrate having that jurisdiction, and such order shall be obeyed.

Power as to making and revocation of Orders in Council.

31. It shall be lawful for Her Majesty in Council from time to time to make Orders for the purposes of this Act, and to revoke and vary any Order so made; and every Order so made shall while it is in force have the same effect as if it were enacted in this Act.

An Order in Council made for the purposes of this Act shall be laid before Parliament as soon as may be after it is made if Parliament is then in session, or if not, as soon as may be after the commencement of the then next session of Parliament.

Power of legislature of British possession to pass laws for carrying into effect this Act.

32. If the legislature of a British possession pass any Act or ordinance—

(1) for defining the offences committed in that possession to which this Act or any part thereof is to apply; or

(2) for determining the court, judge, magistrate, officer, or person by whom and the manner in which any jurisdiction or power under this Act is to be exercised; or

(3) for payment of the costs incurred in returning a fugitive or a prisoner, or in sending him back if not prosecuted or if acquitted, or otherwise in the execution of this Act; or

(4) in any manner for the carrying of this Act or any part thereof into effect in that possession,

it shall be lawful for Her Majesty by Order in Council to direct, if it seems to Her Majesty in Council necessary or proper for carrying into effect the objects of this Act, that such Act or ordinance, or any part thereof, shall with or without modification or alteration be recognised and given effect to throughout Her Majesty's dominions and on the high seas as if it were part of this Act.

Application of Act.

Application of Act to offences at sea or triable in several parts of Her Majesty's dominions.

33. WHERE a person accused of an offence can, by reason of the nature of the offence, or of the place in which it was committed, or otherwise, be, under this Act or otherwise, tried for or in respect of the offence in more than one part of Her Majesty's dominions, a warrant for the apprehension of such person may be issued in any part of Her Majesty's dominions in which he can, if he happens to be there, be tried; and each part of this Act shall apply as if the offence had been committed in the part of Her Majesty's dominions where such warrant is issued, and such person may be apprehended and returned in pursuance of this Act, notwithstanding that in the place in which he is apprehended a court has jurisdiction to try him:

Provided that if such person is apprehended in the United Kingdom a Secretary of State, and if he is apprehended in a British possession, the governor of such possession, may, if satisfied that, having regard to the place where the witnesses for the prosecution and for the defence are to be found, and to all the circumstances of the case, it would be conducive to the interests of justice so to do, order such person to be tried in the part of Her Majesty's dominions in which he is apprehended, and in such case any warrant previously issued for his return shall not be executed.

Application of Act t convicts.

34. WHERE a person convicted by a court in any part of Her Majesty's dominions of an offence committed either in Her Majesty's dominions or elsewhere, is unlawfully at large before the expiration of his sentence, each part of this Act shall apply to such person, so far as is consistent with the tenor thereof, in like manner as it applies to a person accused of the like offence committed in the part of Her Majesty's dominions in which such person was convicted.

Application of Act to removal of person triable in more than one part of Her Majesty's dominions.

35. WHERE a person accused of an offence is in custody in some part of Her Majesty's dominions, and the offence is one for or in respect of which, by reason of the nature thereof or of the place in which it was committed or otherwise, a person may under this Act or otherwise be tried in some other part of Her Majesty's dominions, in such case a superior court, and also if such person is in the United Kingdom a Secretary of State, and if he is in a British possession the governor of that possession, if satisfied that, having regard to the place where the witnesses for the prosecution and for the defence are to be found, and to all the circumstances of the case, it would be conducive to the interests of justice so to do, may by warrant direct the removal of such offender to some other part of Her Majesty's dominions in which he can be tried, and the offender may be returned, and, if not prosecuted or acquitted, sent back free of cost in like manner as if he were a fugitive returned in pursuance of Part One of this Act, and the warrant were a warrant for the return of such fugitive, and the provisions of this Act shall apply accordingly.

Application of Act to foreign jurisdiction.

36. It shall be lawful for Her Majesty from time to time by Order in Council to direct that this Act shall apply as if, subject to the conditions, exceptions, and qualifications (if any) contained in the Order, any place out of Her Majesty's dominions in which Her Majesty has jurisdiction, and which is named in the Order, were a British possession, and to provide for carrying into effect such application.

Application of Act to, and execution of warrant in, United Kingdom, Channel Islands, and Isle of Man.

37. This Act shall extend to the Channel Islands and Isle of Man as if they were part of England and of the United Kingdom, and the United Kingdom and those islands shall be deemed for the purpose of this Act to be one part of Her Majesty's dominions; and a warrant endorsed in pursuance of Part One of this Act may be executed in every place in the United Kingdom and the said islands accordingly.

Application of Act to past offences.

38. This Act shall apply where an offence is committed before the commencement of this Act, or, in the case of Part Two of this Act, before the application of that part to a British possession or to the offence, in like manner as if such offence had been committed after such commencement or application.

Definitions and Repeal.

Definition of terms.

39. In this Act, unless the context otherwise requires,—

"Secretary of State":

the expression "Secretary of State" means one of Her Majesty's Principal Secretaries of State:

"British possession":

the expression "British possession" means any part of Her Majesty's dominions, exclusive of the United Kingdom, the Channel Islands, and Isle of Man; all territories and places within Her Majesty's dominions which are under one legislature shall be deemed to be one British possession and one part of Her Majesty's dominions:

"Legislature":

the expression "legislature," where there are local legislatures as well as a central legislature, means the central legislature only:

"Governor:"

the expression "governor" means any person or persons administering the government of a British possession, and includes the governor and lieutenant governor of any part of India:

"Constable:"

the expression "constable" means, out of England, any policeman or officer having the like powers and duties as a constable in England:

"Magistrate:"

the expression "magistrate" means, except in Scotland, any justice of the peace, and in Scotland means a sheriff or sheriff substitute, and in the Channel Islands, Isle of Man, and a British possession means any person having authority to issue a warrant for the apprehension of persons accused of offences and to commit such persons for trial:

"Offence punishable on indictment"

the expression "offence punishable on indictment" means, as regards India, an offence punishable on a charge or otherwise:

the expression "oath" includes affirmation or declaration in the case of persons allowed by law to affirm or declare instead of swearing, and the expression "swear" and other words relating to an oath or swearing shall be construed accordingly : "Oath:"

the expression "deposition" includes any affidavit, affirmation, or statement made upon oath as above defined : "Deposition:"

the expression "superior court" means : "Superior court."

(1) in England, Her Majesty's Court of Appeal and High Court of Justice; and

(2) in Scotland, the High Court of Justiciary; and

(3) in Ireland, Her Majesty's Court of Appeal and Her Majesty's High Court of Justice at Dublin; and

(4) in a British possession, any court having in that possession the like criminal jurisdiction to that which is vested in the High Court of Justice in England, or such court or judge as may be determined by any Act or ordinance of that possession.

Commencement of Act

40. THIS Act shall come into operation on the first day of January one thousand eight hundred and eighty-two, which date is in this Act referred to as the commencement of this Act.

Repeal of Act in schedule.

41. THE Act specified in the schedule to this Act is hereby repealed as from the commencement of this Act :

Provided that this repeal shall not affect—

(*a*) any warrant duly endorsed or issued, nor anything duly done or suffered before the commencement of this Act; nor

(*b*) any obligation or liability incurred under an enactment hereby repealed; nor

(*c*) any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; nor

(*d*) any legal proceeding or remedy in respect of any such warrant, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any such warrant may be endorsed and executed, and any such legal proceeding and remedy may be carried on, as if this Act had not passed.

SCHEDULE.

Year and Chapter.	Title.
6 & 7 Vict. c. 34 ...	An Act for the better apprehension of certain offenders.

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